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**APPENDIX**

**EXTENSION OF TENURE OF GOVERNMENT  
CONTROL OF RAILROADS**

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**HEARINGS**

BEFORE THE

**COMMITTEE ON INTERSTATE COMMERCE  
UNITED STATES SENATE**

**SIXTY-FIFTH CONGRESS**

**THIRD SESSION** +

**ON**

9851.812328

**THE EXTENSION OF TIME FOR RELINQUISHMENT BY THE  
GOVERNMENT OF RAILROADS TO CORPORATE  
OWNERSHIP AND CONTROL**

—  
**IN THREE VOLUMES**

**VOLUME 3**  
—

(Volumes 2 and 3 contain Report of Hearings before the Joint Subcommittee of  
Congress, November 20, 1917, to December 19, 1918)

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Printed for use of the Committee on Interstate Commerce



**WASHINGTON  
GOVERNMENT PRINTING OFFICE  
1919**







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## APPENDIX

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VOLUMES 2 AND 3 OF

### EXTENSION OF TENURE OF GOVERNMENT CONTROL OF RAILROADS

Contain the Complete Hearings Before the

#### JOINT SUBCOMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Ordered Printed by the

#### COMMITTEE ON INTERSTATE COMMERCE

SENATE OF THE UNITED STATES

Sixty-fifth Congress, Third Session

As an appendix to the hearings on the extension of time for relinquishment by the Government of Railroads to corporate ownership and control, held January 3 to February 21, 1919.





## INTERSTATE AND FOREIGN TRANSPORTATION.

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THURSDAY, NOVEMBER 1, 1917.

CONGRESS OF THE UNITED STATES,  
JOINT COMMITTEE ON INTERSTATE COMMERCE,  
*San Francisco, Cal.*

The Joint Committee on Interstate Commerce met, pursuant to call of the chairman, in the Palace Hotel at 10 o'clock a. m., Senator Francis G. Newlands (chairman) presiding, Representative William C. Adamson (vice chairman).

The CHAIRMAN. The Joint Committee on Interstate Commerce has assembled in San Francisco for the purpose of hearing representatives of the various State commissions and of commercial bodies and others, in the Intermountain and Pacific coast regions, regarding the transportation problems that relate to that region and also the general survey of the railroad and transportation question contemplated by Senate resolution 60, with which you are probably familiar.

That resolution calls for an investigation of the question of the regulation of interstate commerce and also the question of Government ownership of public utilities engaged in interstate commerce, including not only railroads but oil lines, telegraph lines, and telephone lines. Our inquiry thus far has covered the question of the form of the organization of railways, as to whether that form shall be under National or State corporations, and it has also covered the question of exclusive control of the issues of securities by corporations engaged in interstate commerce and also the question of the organization of the Interstate Commerce Commission; the question of regional commissions has also come up in connection with the organization of that commission, the regional commissions operating in the various regions of the country being brought into close contact with the commercial interests affected, with possibly an appeal to the central commission at Washington.

We are here to listen to any suggestions relating to the general problems, or relating to the local problems on this coast, or the Intermountain region, and I will open by taking a survey of those who wish to participate in these hearings and the subjects upon which they wish to be heard. I will suggest that where there are a number who are interested in the same subject that they concentrate as much as possible by the selection of one or two to represent their views, although, of course, we intend to give the widest opportunity to be heard. But it is important that our record should not be a too bulky one; that we should take into consideration the fact that we have taken some 2,000 pages of testimony, and we have only commenced

the inquiry. All of you realize, of course, that if we have too bulky a record it will never be read and never be a fruitful source of information upon these various subjects, if the hearings are too much diffused.

I will ask whether there are any representatives here of State commissions who would like to be heard upon any of these problems?

MR. JONES. F. A. Jones, chairman of the Arizona Corporation Commission. My request for time would depend somewhat upon the developments of the hearings.

THE CHAIRMAN. Is there any special subject upon which you wish to be heard, Mr. Jones?

MR. JONES. Possibly the apparent conflict between State and interstate regulation. That is as important as anything to the State commissions.

THE VICE CHAIRMAN. Mr. Chairman, I would suggest to Mr. Jones that it would not be safe for him to give direction to his testimony according to what he thinks may be developed here, because we have already had hearings and will have many more hearings, probably; so you had better address yourself to the subject which in your mind seems best. This may constitute but a very small part of the hearings out here.

MR. JONES. I should be glad of the opportunity to have a few moments at any time.

THE CHAIRMAN. When would you like to be heard, Mr. Jones?

MR. JONES. My preference would be to-day or to-morrow. I do not know how long the committee will sit.

THE CHAIRMAN. We will probably not proceed far in the hearings to-day. Would you like to be heard to-morrow?

MR. JONES. To-morrow will be satisfactory.

THE CHAIRMAN. We will have a meeting to-morrow, commencing at 10 o'clock.

MR. THELEN. Commissioner Loveland, Commissioner Gordon, and I are here representing the California commission. Commissioner Edgerton will be here later. We may have some little affirmative testimony, such testimony as will probably take not more than 10 or 15 minutes.

I am also here in the absence of Senator Bristow, who is chairman of the committee on State and Federal legislation of the National Association of Railway and Utilities Commissioners. In his absence I have been delegated to represent the national association at these hearings.

THE CHAIRMAN. Mr. Thelen, you will recall that you were to present yourself again for examination by the members of the committee.

MR. THELEN. I shall throw myself on the mercy of the committee at any time when the committee desires to proceed with me.

THE CHAIRMAN. Will you be ready to proceed at any time?

MR. THELEN. At any time that suits the convenience of the committee.

THE CHAIRMAN. Is there anyone else who desires to be heard?

MR. MCCARTHY. W. S. McCarthy, representing the traffic bureau of Utah. I desire to enter an appearance and may desire to present some testimony or figures if it seems necessary as the hearings develop.



The CHAIRMAN. Upon what subject would you like to be heard?

Mr. MCCARTHY. The subjects of Federal control as against that of State commissions, and also the matter of rates as probably affecting the long and short haul clause, as it interests the intermountain country.

The CHAIRMAN. Is there any other State commission which would like to be heard? Are there any chambers of commerce or boards of trade represented here?

Mr. MANN. Mr. Seth Mann. If the committee please, I would like to enter my appearance for the San Francisco Chamber of Commerce, and probably some time next week, if the committee is sitting, I shall be ready to appear before you.

The CHAIRMAN. Some time next week?

Mr. MANN. Yes, sir.

Mr. GREGSON. Fred P. Gregson, representing the traffic department of the Associated Jobbers of Los Angeles, a commercial organization would like to be heard on both the question of Federal control and the intermountain situation.

The CHAIRMAN. The question of the long and short haul clause?

Mr. GREGSON. The long and short haul clause, and as to time, I should like to follow in line with the commercial bodies and State commissions and after Mr. Mann, of San Francisco.

Mr. BRADLEY. G. J. Bradley, representing the commercial interests of Sacramento, Cal. I wish to enter an appearance and ask the courtesy of the committee, if I feel so disposed, to give very short testimony. I may not have anything to say, but I should like the privilege, if occasion arises, both as regards the question of State against Federal control and also as regards the long and short haul clause.

Mr. HILL. F. M. Hill, representing the Fresno Traffic Association, I may or may not have something in the way of testimony to present, but I should like to reserve a little time, if your honor will permit, on the question of State and Federal commissions and the long and short haul clause.

The CHAIRMAN. Will you inform the clerk when you will be ready to proceed?

Mr. HILL. Yes, sir; I would like to follow the other commercial interests in their line.

Mr. MANN. I should also like to enter the appearance of S. J. Wetrick, of Seattle, who will enter the city to-night, according to a telegram I received.

Mr. BISHOP. L. R. Bishop, representing the Oakland Chamber of Commerce, would like to enter an appearance and possibly would like to put in some testimony on the questions which have been mentioned.

The CHAIRMAN. Are there any other chambers of commerce represented?

Mr. SOMMERS. J. C. Sommers, representing the Stockton Chamber of Commerce. I do not know whether I would like to put in any testimony, but if I do, it will be along the same lines as the other commercial organizations.

The CHAIRMAN. Please keep the clerk informed as to your whereabouts in case we should have an opportunity to hear you.

Mr. SOMMERS. Yes, sir.

The CHAIRMAN. Are there any other commercial bodies that would like to be heard? Are there any individual who would like to be heard on these questions, whether representatives or not of commercial bodies?

Mr. TROY. E. P. E. Troy, representing the Public Ownership Association of San Francisco, would like to deal with the various stages of the railroad question and public ownership that would tend to enlighten your committee on the question of Government and public ownership.

The CHAIRMAN. When would you like to be heard?

Mr. TROY. I should like to follow toward the latter end of your session, after you have heard the official and commercial bodies.

The CHAIRMAN. Will you be in attendance, so as to be available for call at any time?

Mr. TROY. Yes, sir; I shall, but I should like to have a little notice in order to prepare in a proper way what I want to say.

The CHAIRMAN. Senator Cummins suggests that we should proceed to-morrow morning consecutively and as speedily as possible with these hearings.

The VICE CHAIRMAN. You mean in the order in which the gentlemen have entered their appearances?

The CHAIRMAN. In the order in which they are willing to appear, so that I imagine Mr. Thelen will be ready to-morrow morning. Is there anybody else who will be ready to-morrow morning?

The VICE CHAIRMAN. I suggest that after the cross-examination of Mr. Thelen is concluded that we take up the witnesses in the order in which they have entered their appearances this morning.

Senator CUMMINS. That is entirely satisfactory to me. I think Mr. Healy can probably arrange for the order in which they should come on.

The VICE CHAIRMAN. If they desire to make any substitutions or change places, that can be done by mutual consent.

The CHAIRMAN. The clerk will arrange with the gentlemen who have made their appearances as to the order in which they shall appear.

Is there anybody else who wishes to be heard? The committee has received an indication that some of the representatives of the commercial bodies and State commissions of the intermountain region would like to be heard regarding the long and short haul clause. I received a communication from Senator King, of Utah, informing me that there was a gentleman to be here. I think a gentleman from Utah presented his appearance, and I should like to know from him whether Senator King will appear before us.

Mr. MCCARTHY. I understand not. I understand Senator King is leaving for Honolulu to-day and will not appear. As to the suggestion concerning the testimony being given in the order in which appearances were entered, I should like to say, so far as Utah is concerned, I am not prepared at the present time to offer the testimony that should be given in support of our position. I should like to defer that to a date later in the hearings.

The CHAIRMAN. Mr. Bartine, the chief of the Nevada commission, stated that he wished to appear. He does not seem to be present to-day.



Mr. Thelen, if you are ready now the committee will hear you and proceed until about 12 o'clock and then adjourn until to-morrow at 10 o'clock.

### STATEMENT OF MR. MAX THELEN—Resumed.

Senator CUMMINS. Mr. Thelen, you appeared before the committee some months ago, but in order to make the connection I suggest that you state here your relation to this matter.

Mr. THELEN. At the time I appeared before this committee in Washington, I was the president of the National Association of Railway Commissioners. My term has expired since, and at the present time I am a member of the committee on State and Federal legislation of the National Association of Railway and Utility Commissioners. I am also president of the Railroad Commission of California.

Senator CUMMINS. As I remember your statement or argument, you were opposed to the plan of Federal incorporation which had been rather elaborately laid before the committee by Mr. Thom?

Mr. THELEN. Yes; that is true.

Senator CUMMINS. You were opposed to it for various reasons, but among other reasons, because, first, it would result in substituting Federal control for State control in many things which you thought would be unwise?

Mr. THELEN. I was opposed to it in part because of the provisions of that plan as presented by the railroads, and I was opposed to it also because of my feeling that this plan of Federal incorporation, as presented by the railroads, was merely to be used as an agency for taking away from the States all their powers in connection with the railroads to any extent engaged in interstate commerce. In other words, my opposition is based in part to the specific plan as presented and in part to the general purpose and aim which I believe the railroads have in connection with the general subject of Federal incorporation of railroads.

Senator CUMMINS. Without attempting to recite the various points of your argument, as I remember it, you were opposed to a compulsory Federal incorporation law, because you believe that, through the instrumentality of Federal incorporation, the States could be and would be deprived, first, of its authority to regulate or control intrastate rates, and also its power to tax the railway property?

Mr. THELEN. As I understand the plan presented by the railroads, it does not contemplate, at this time, that the States shall be deprived of their power to tax railway property nor that they shall be deprived of police powers which the railroads denominate as nonvital. But if the plan is followed, then it has within it the possibility of taking from the States even those two remaining powers which they do not contemplate taking away right away, namely, first, taxes, and, second, police powers which they denominate as nonvital.

Senator CUMMINS. I will not undertake to classify the powers of regulation into those which are vital and those which are nonvital, but confine myself, for the moment, to the powers which I think everybody will concede are vital, namely, the power to adjust or regulate State traffic and the power of taxation. You remember the argument was that, at this time, at any rate, it was not suggested that

there should be an exemption of railroad property from State taxation.

Mr. THELEN. That is correct.

Senator CUMMINS. But, as I remember it, your argument was that if all the carriers of the United States doing an interstate business were required to incorporate under a Federal law it would lead easily and quickly to the exemption of railroad property from State taxation.

Mr. THELEN. In other words, if the Federal Government has the power, under the Constitution as it now stands, to exempt railway property in the States from taxation, then this would be a very convenient agency or vehicle for exercising that power and taking from the States their power to tax all railroad property.

Senator CUMMINS. As I remember it, your argument insisted that, under the plain inference of the decisions of the Supreme Court already rendered, Congress could exempt the property of railroads performing interstate service from State taxation through Federal incorporation.

Mr. THELEN. Yes; and I drew the committee's attention to two decisions of the Supreme Court of the United States, one known as the Thomson case and the other known as the Peniston case, in which there was clear intimation or suggestion from the Supreme Court to the effect that if the Federal charters in those particular cases had specified that the States should not have the power to tax the railroad property, the States would have lost their power of taxation. In those two cases, however, the Supreme Court found that the charters did not contain those specific provisions, and for that reason, in those two cases, the State was authorized to continue its power to tax, but the inference in those two decisions is very clear that through the instrumentality of Federal incorporation of railroads the States could be deprived of their power to tax railroad property, even though located within their limits.

Senator CUMMINS. In your review of the matter you began with the well-known case of *Reagan v. The Mercantile Trust Co.*, in which are found suggestions or conclusions which lead you to the opinion that if all carriers of the country were required to incorporate under a Federal law it would be constitutional for Congress to interpose in that either special or general incorporation law a provision that would prevent and could prevent State taxation.

Mr. THELEN. The Reagan case was a rate case, but I assume that the inference which is contained in that case as to rates would have equal application to taxation.

Senator CUMMINS. It was a rate case, and was followed by the case of *Smyth against Ames*, or *Ames against Smyth*, which was also a rate case, and following these decisions, down to the present time, you reach the conclusion that if Congress were to pass a Federal incorporation law and were to put into it a provision that would entirely exempt railroad property from taxation the States would lose their power of taxation.

Mr. THELEN. If I may put my view this way, it is, if a Federal incorporation act were passed, and if that act contained a provision by which the States were to be deprived of their power to tax railroad property, and then if the Supreme Court will establish as law the dictum in the two cases before mentioned, and in the Minnesota rate



case, then the power of the States would be effectively taken away, so far as the power of taxation is concerned.

Senator CUMMINS. Turning from that a moment to the other question which I suggested, namely, the power of Congress over rates, which we have been in the habit of denominating heretofore as State rates, or rates upon intrastate traffic, as I remember it, you were of the opinion that through the incorporation by the Federal Government that Congress might assume a power or jurisdiction over State rates that it could not exercise simply as a regulation of commerce among the States.

Mr. THELEX. My view on that subject is this: If we rely solely on the commerce clause in the Federal Constitution, then I can not see how the Federal Congress has the power to take away from the States the regulation of purely State rates. I think every one must agree to that, but in looking further I find that in this Reagan case, in Smyth against Ames, and the Minnesota Rate case there is a very strong intimation that under two of the provisions of the Constitution this matter may be brought about, those other two provisions being, first, the military power, and, second, the power over post roads. It is intimated in the Reagan case and the other two cases that under those two powers this thing can be brought about through the Federal incorporation of railroads. I want to be entirely frank with the committee, though, and say that in my judgment the language used in those three cases does not have exactly the force of decision, but it is very strong dictum.

Senator CUMMINS. That is to say, if Congress were to authorize the incorporation of a carrier under its power to establish a post road or post roads, that it might take to itself the authority to regulate or control State rates to a greater degree than it could operating upon a State corporation?

Mr. THELEX. As far as that particular point goes, Senator, I personally can not see how the Federal Government, through the agency of a corporation, can do any more than it can do directly as a principal.

Senator CUMMINS. You have now brought yourself to the precise point that I have in mind and concerning which I am not altogether clear. Without regard to the wisdom of Federal incorporation, concerning which I express no opinion—and I desire to be understood in my examination as not indicating any opinion upon that subject—but I can not very clearly see the danger you anticipate would follow from Federal incorporation, for it seemed to me you were inclined to believe that we could do more toward substituting Federal control for State control over rates and taxation through a Federal incorporation than we could through a State corporation.

Mr. THELEX. If you have that view, Senator, I think you must have misunderstood me. I have never been of the opinion that the Federal Government can do more through an agency than it can do directly itself as a principal. The case of *McCulloch v. Maryland* shows, I think, clearly the basis of the power of the Federal Government over Federal corporations. That, you will remember, was a national-bank case. There it was held that the Federal Government has the power to do through an agent what it can do directly, and it has the power, therefore, to create a corporation as its agent to exercise its powers. The same thing was held in one of the cases

which went from the Supreme Court of the State of California, so far as a railroad corporation is concerned. There again it was said that the power of the Federal Government to create a corporation for this purpose goes back to the power of the Federal Government to create an agency to exercise its admitted powers. That being the case, looking at the matter solely as a question of law and solely as a question of legal power, I am not of the opinion that the Federal Government can do more through the creation of a Federal railroad corporation than it can do directly through the exercise of its powers on a State railroad corporation.

When it comes to getting results, I think it is perfectly obvious that much more can be accomplished by the Federal Government indirectly by Federal incorporation than by going to Congress directly and asking for a law taking away the entire power of the States to establish rates. I want to distinguish between the legal aspects of the question and the policy aspects of the situation.

Senator CUMMINS. That is the point I wanted to be made clear, and concerning which I was in some doubt, after carefully reviewing your testimony or statement. We will assume that there are certain State rates which can not be fixed or controlled by Federal authority, which are exclusively within the control of the several States, and we will assume that it would be unwise to withdraw railway properties from the operation of the State tax laws, and, with those assumptions, taking the next step, is there anything that could be done through a Federal incorporation that could not be done by Congress through a State corporation?

Mr. THIELEN. In my judgment, there is nothing. In other words, in my judgment the Federal Government can do directly without an agent whatever it can do indirectly through an agent.

Senator CUMMINS. Then wherein lies the danger of Federal incorporation?

Mr. THIELEN. The danger, as I see it, lies in this, that when a complete plan for Federal incorporation is presented to Congress it is much easier, by the use of a few words here and there in the plan, to take away from the States their powers than it would be if a direct statute for this specific purpose were introduced in Congress and came before the country. If the Federal incorporation act were not so framed in the first instance as to take away from the States all their powers, it would be very easy at a later session of Congress to take away or add a few words which would take away those powers. Furthermore, we know that our railroads are advocating this plan for the specific purpose of taking away from the States almost all their powers, and we must assume, if they are successful in their efforts, that they will so frame the Federal incorporation statute as to accomplish their purpose. On the other hand, I doubt very much if any of them would go before the country to-day and advocate an amendment to the interstate commerce act taking away from the States all their rate-making powers and taxation powers.

Mr. THOM. I would like to protest against that statement of the railroads' attitude. I have no opportunity for cross-examination, but that is such a misunderstanding of our attitude that I want to enter a dissent here.

Mr. THELEN. I, of course, do not want to be unfair in the matter, but I stand entirely on the record in connection with Mr. Thom's testimony.

Senator CUMMINS. Your opposition to Federal incorporation grows out of practical reasons rather than constitutional or legal reasons?

Mr. THELEN. That is true as to my opposition to Federal incorporation in general. In addition to that, I have specific objections to the particular plan of Federal incorporation which has been presented by the railroads.

Senator CUMMINS. I am not attempting to pursue the plan that has been proposed. I am speaking of Federal incorporation generally, assuming that if Congress concluded to adopt that way of regulating interstate transportation, it would do it wisely and with due regard to the rights and privileges of the several States. My mind is not fixed upon the exact plan which has been advocated by Mr. Thom, whether he is right about it or you are right about that.

The two powers to which you referred a few moments ago, and which might be invoked according to the decisions of the Supreme Court or the intimations of the Supreme Court, for Federal incorporation, are, first, the power to establish post roads, and, second, the power of national defense, are they not?

Mr. THELEN. Yes.

Senator CUMMINS. Legally speaking, there is no constitutional obstacle in the way of establishing a railway owned by a State railroad corporation as a post road?

Mr. THELEN. I know of none.

Senator CUMMINS. And the same quality would follow that railroad as though it were incorporated under a Federal law?

Mr. THELEN. I should think so, Senator, although I have no authority on that particular point.

Senator CUMMINS. You have given the subject a great deal of study, and I want your opinion. What I said with regard to the establishment of post roads is true also of railroads which are also taken under Government supervision or control for the maintenance of the national security and defense?

Mr. THELEN. I should think that would follow.

Senator CUMMINS. Do you believe, Mr. Thelen, that either a Federal corporation or a State corporation, through which Congress acted, or might act, in establishing a post road, could be given the authority to deal with intrastate rates?

Mr. THELEN. I would say this, Senator, that if the dictum in the decision of the Supreme Court of the United States in the Reagan case is law, then yes.

Senator CUMMINS. I will take a case of direct incorporation under a Federal law. You are of the opinion that under the guise of establishing a post road, the authority to do which is very clear, Congress could fix rates that were purely local or intrastate as an incident of its power to establish a post road?

Mr. THELEN. What I have said all along, Senator, is that if the dictum to that effect contained in the Reagan case and followed in the Smyth against Ames, and the Minnesota Rate case is law, then that conclusion necessarily follows.



Senator CUMMINS. That question did not come up in the Reagan case, did it, or in the Smyth case, either?

Mr. THELEN. In those cases the question at issue was control over State rates charged by Federal railroad corporations, and the Supreme Court referred to both the authority of the Federal Government over post roads and the power of the Federal Government in connection with the national defense, intimating very clearly that if these particular provisions had been contained in those charters they would be held legal. That was the argument presented to the Supreme Court very strongly and effectively in the brief filed by the Texas & Pacific Railroad Co., which was signed by Mr. R. S. Lovett, among others.

Senator CUMMINS. Then your inference from those decisions is that a railroad, having been established or designated as a post road under that power in the Constitution, not only has a right to transact local business without the consent of the State but has the right—I mean Congress has the right with respect to those roads—to fix local rates?

Mr. THELEN. Again, if that dictum is law; yes.

Senator CUMMINS. Is that your own opinion? Do you believe that under the power to establish a post road Congress can enlarge its authority to regulate commerce?

Mr. THELEN. Personally, Senator, I have much doubt about the matter, for this reason: We find in the Federal Constitution three provisions that bear on the question—first, the commerce clause; second, the language as to post roads; and, third, the language as to national defense. As to one of those clauses, the commerce clause, there is a clean-cut and specific declaration, as I view it, that the Federal Government shall not control rates which are purely State rates. The authority of the Federal Government is limited to the regulation of commerce with foreign nations, among the various States, and with the Indian tribes. You have three provisions, standing side by side, one of which contains a specific limitation of power.

It is somewhat difficult for me to understand how that specific limitation of power can be overridden by the other two general provisions, one of them being the provision as to post roads and the other as to the national defense, and it is because of that doubt that I have had that I have tried to be very careful in my testimony all along to indicate that if that dictum in the Reagan case is law, then that would follow. Personally, I have much doubt about it.

Senator CUMMINS. Do you think that a plain, obvious attempt to regulate commerce in the fixing or adjustment of purely State rates could be sustained under the pretense that we were exercising the power to establish a post road or for the national defense?

Mr. THELEN. That comes back again, Senator, to the same proposition. You ask if I think so, and I say frankly to you that I have much doubt about it; but, on the other hand, I say, with equal frankness, that the lawyers on the other side of the proposition would have a strong case, because they would refer to the repeated intimations and declarations on the part of the Supreme Court, and they would suggest to the Supreme Court making what is now simply dictum into law.

Senator CUMMINS. If that is so, the limitation as to the commerce clause disappears entirely.

Mr. THELEN. Entirely.

Senator CUMMINS. And it becomes equivalent to a declaration that Congress can regulate all commerce, whether State or interstate; and that proposition is, to say the least, not generally accepted by the profession in the country, is it?

Mr. THELEN. I believe not, in the profession in the country as a whole; but I understand that eminent railroad counsel take the position that under certain recent decisions of the Supreme Court the Government has the right to regulate in all respects the instrumentalities of interstate commerce, including State rates. In other words, if they can find a railroad engaged in interstate commerce, they will take that instrumentality of interstate commerce and, as to that instrumentality, subject it completely to interstate control. Personally, I do not so read the decisions of the Supreme Court.

Senator CUMMINS. Nor do I, because if that was so, the effort of the Supreme Court in the Shreveport case, for example, to show that the Texas rate was a discriminating rate and directly affected interstate commerce, would have been entirely unnecessary, would it not?

Mr. THELEN. I think so.

Senator CUMMINS. If the mere fact that the railroad was an instrumentality of interstate commerce gave the Interstate Commerce Commission the authority to fix all rates, whether they were interstate or intrastate, then all the reasoning that has been adopted or used by the Supreme Court to show the effect of State regulation upon interstate rates or upon the revenue of interstate carriers would have been unnecessary.

Mr. THELEN. So it would appear to me.

Senator CUMMINS. As I understand it, what the railroads claim—and I am now probably putting a construction on Mr. Thom's argument—it is this, that if the intrastate rate puts an obstacle in the way of interstate traffic, as an obstacle, it can be removed by an act of Congress, in order to free the channels of interstate commerce from any State obstruction, and, second, that if the intrastate rate has such an effect upon the revenue of the carrier that it impairs the ability of the carrier to render interstate service, that then either of those things brings the case within the constitutional power of Congress. But I have not understood Mr. Thom's argument to lead to the inevitable conclusion that all regulations may be assumed by Congress to the exclusion of the States. I may be wrong about my interpretation of his argument. There are some parts of it from which one might infer, I think, that it is his view that Congress can take it all.

Mr. THELEN. I am not quite sure as to Mr. Thom's view on that point, and wanting to be entirely fair to him, I do not want to express any view as to what his view is; but it is undoubtedly true that other railroad counsel, in articles that have appeared in magazines and law journals, have taken the view that through Federal incorporation, and notwithstanding the commerce clause in the Federal Constitution, the power of the States over all intrastate rates can be taken away. I refer, among others, to an interesting article that appeared in the Yale Law Journal early this year, written by

Mr. Cook, one of the ablest lawyers in the country, who takes that view. There are others who take the same view.

Senator CUMMINS. I will not pursue that subject any further. Still, it is very interesting to me, but it is really not material to your statement. But what I wanted the record to very clearly show is this, that if we have the power to exclude the States from all regulation or supervision of rates and all power of taxation, we can exercise it through a State corporation just as effectually as we can exercise it through a Federal corporation.

Mr. THELEN. That is my view. I believe that the Federal Government can do everything directly which it can do through an agency.

Senator CUMMINS. So your opposition to Federal incorporation, from your standpoint, comes to this, that Congress as a practical thing is more likely to invade what is now or has been recognized as the domain of the States if it is operating through a Federal corporation than though it attempt to impose these things directly on a State corporation?

Mr. THELEN. I think that is undoubtedly the case. I speak now with reference to the general plan presented. We, of course, have specific objections in which you are not now interested—with reference to certain details of the plan heretofore presented by the railroads.

Senator CUMMINS. I am not now addressing myself to that. That is the main point, Mr. Chairman, which I wanted entirely cleared.

The VICE CHAIRMAN. Mr. Chairman, I do not want to cross-examine Mr. Thelen, except in connection with Mr. Cummins's suggestions. When we were boys we had an old-fashioned game of marbles, and in playing it the boys "fudged" sometimes. "Construction" is the legal substitute for "fudging" in playing marbles and I understand those who object to Federal incorporation are afraid that "construction" may do a harm to the States which can not be directly done under the Constitution; is that correct?

Mr. THELEN. I think some of them have those fears, Judge.

The VICE CHAIRMAN. That is all.

Mr. SIMS. I had the very great pleasure of hearing your testimony in chief before the committee in Washington, and the right was reserved, I think, by every member who was present to ask you additional questions. I do not understand the questions are asked in the nature of cross-examination.

Mr. THELEN. It is very good-natured examination.

Mr. SIMS. As I say, I do not think the questions are asked in the nature of a cross-examination in which we seek to prejudice the country against the witness's statement; in other words, it is not antagonistic. But, it seems to me, the subject on which you have been examined by Senator Cummins is so very important that anybody might be pardoned for pursuing it a little further.

Taxation that is nonvital may safely be left to the States, or to the extent of not proving vital may be left to the States' control under the theory presented to the committee by the counsel of the railroad executives.

Mr. THELEN. I understand that theory to be this, that taxation and any of the so-called police powers which are supposed to be nonvital are to be left, in the first instance, with the States.



Mr. SIMS. Is there any power that the Government may exercise that is in its nature more vital than that of taxation?

Mr. THELEN. It is a very important power. They say that comparisons are odious, but that is an extremely important power.

Mr. SIMS. Is there anything more vital than the power of the Government to tax?

Mr. THELEN. It is difficult to think there is anything more vital than that.

Mr. SIMS. Then, how is any scheme of national incorporation that does not also provide for or limit the power of all taxing bodies as to the property owned by this national corporation—

Mr. THELEN. Put solely as a question in pure logic, if I may use those words, I do not see why our friends do not go the limit; in other words, viewed apart from practical considerations, I do not see any reason why our railroad friends do not advocate taking from the States the power to tax railroad property as well as all power over railroad rates. There are, of course, practical arguments that may enter into the consideration.

Mr. SIMS. There may be reasons why this might not be pressed, as it might get in the way possibly of another scheme; but I believe in dealing with it candidly, and the power to tax is the power to destroy, and if the power of the States and their subdivisions to tax is left unrestricted and unrestrained, it seems to me it has left in their hands the most vital power to destroy or injuriously affect interstate commerce that could possibly be left with the States.

Mr. THELEN. In other words, if a State intended to be mean and unfair it could create great havoc to the railroads by unfair taxation, which might amount to discrimination just as much as though the same State, still intending to be mean and unfair, should discriminate in the matter of rates.

Mr. SIMS. It might not be unfair as to railroads in the State—as between railroad property and other property within the State—but with one State having the power to tax property of a corporation—a railroad corporation passing through it to other States—far in excess of the other States, how can that bring about a proposition of fairness between the various States, each State having the power to fix its own standards? It seems to me if we are going to try to regulate commerce by putting limitations upon State powers, that we could not exercise the power more justly and more necessarily than to limit the possibility of destroying an interstate railroad corporation, through one State having one standard of taxation and another another, and yet the railroad having one standard of fixing rates and fares through all these States.

Now, as to the question referred to about the power of Congress as being conferred by the postal-regulation power, has not Congress the power to-day to say what charges shall be made for postal traffic going through any State or from one place to another place within the same State?

Mr. THELEN. I understand that is the case.

Mr. SIMS. And is not the carrying of mail, so called—the United States mail—when reduced to its final analysis, simply a matter of traffic, the transportation of traffic or of property from one section to another, even the transportation of a letter containing intelligence or information? In other words, it is a transportation service pure

and simple. Is not that the fact? Where it comes from one State and goes into another, or leaves one post office and goes to another post office, is not that purely a matter of transportation?

Mr. THELEN. It is purely a matter of transporting messages which are sent——

Mr. SIMS. Or property?

Mr. THELEN. Or property in the case of the parcel post.

Mr. SIMS. We have the parcel post, which is nothing more nor less than a transportation service by the way of packages, there being only a limitation as to the weight and method or character of packing, etc.

Mr. THELEN. I understand that is done under the clause of the Constitution referring to post offices and post roads.

Mr. SIMS. Undoubtedly. Has not Congress the power to fix the rates—postal rates, we will call them; but they are nothing but freight rates after all—has not Congress the absolute and unlimited power to fix freight rates upon property declared to be mailable—sent from one State to another State, or from one point within a State to another point within the same State—without crossing the State line?

Mr. THELEN. I think there is absolutely no doubt about that.

Mr. SIMS. Is there any limitation upon the power of Congress to prescribe what might or might not be mailable matter?

Mr. THELEN. I suppose the only limitation would be the limitation of reasonableness.

The VICE CHAIRMAN. Do you think it would be possible for Congress under the act to declare all freight mail matter?

Mr. THELEN. That is the reason I suggested the limitation of reasonableness. I suppose it would be a question of what is reasonable under the language of the act.

The VICE CHAIRMAN. If the act declared everything was mail matter, you must remember that the Supreme Court is the one body on earth which never disputes anything Congress does.

Mr. SIMS. If I understand what you mean by reasonableness, you mean reasonable in the sense of remunerative charges for the service.

Mr. THELEN. No, sir; I meant the question of whether the thing declared to be mail matter is reasonably mail matter.

Mr. SIMS. How should mail matter be defined so as to indicate what is reasonable or would be reasonable?

Mr. THELEN. I am afraid I have no definition at hand.

Mr. SIMS. Is not that a question simply for the discretion of Congress as to what is or what is not mailable or what can be carried in what is called the United States mail?

Mr. THELEN. I suppose, under a well-known line of decisions, that where Congress acts within its discretion, the Supreme Court will be very slow to overturn what Congress does, particularly on a finding as to facts. But there may be cases in which the Supreme Court would say that Congress has not acted within the power which has been delegated to it, and that it must act within the powers delegated to it by the Constitution.

Senator CUMMINS. Do you believe, Judge Sims, that Congress could make a person mailable?

Mr. THOM. It can not make all persons "male."

The VICE CHAIRMAN. It could say a man was "male."

Mr. SIMS. I want to follow this matter along lines about which there has been no controversy. For instance, under the present parcel-post law Congress proceeds to state what may be carried in the mails, the method of packing and the weight of the packages and the postage to be charged the person who reaps the benefit of the transportation performed. Now, if Congress has the right or power—that is the best way to define it, I suppose—to order that 50 pounds of a certain product should be carried in the United States mail, has it not the power to say that 100 pounds could be carried in the mails?

Mr. THELEN. Carried as mail?

Mr. SIMS. Yes; or in the mails.

Mr. THELEN. I suppose they could do that.

Mr. SIMS. Then, is there any constitutional limitation upon Congress as to how many pounds may be carried?

Mr. THELEN. As mail matter?

Mr. SIMS. As mail matter; yes.

Mr. THELEN. I know of none, within what is generally regarded as mail.

Mr. SIMS. In other words, is there any limitation upon the power of Congress to prescribe whatever may be carried in the mails, as to weight or quantity or anything else?

Mr. THELEN. If these matters are actually to be carried in the mails, I know of no limitations, so far as that clause in the Constitution is concerned, if the packages can fairly be said to be mail; but it is one thing to refer to packages being carried in the mails and it is an entirely different thing to refer to freight or passengers which are carried, not in the mails and not under the postal regulations, but carried by the railroads in the course of their regular business.

Mr. SIMS. I am trying to ascertain the power of Congress, in order to get your opinion on it; in other words, by saying or declaring what is mailable matter and prescribing the rates—and that power is equally potential between points within a State as well as between points in one State and in another State—if Congress has unlimited and unrestricted power to declare what is mailable matter and unrestricted power to fix charges on it, prescribing limitations, in other respects, Congress through that clause in the Constitution may practically absorb all transportation of every kind in the United States, both within and without and between States.

Mr. THELEN. Do you ask my opinion on that?

Mr. SIMS. I ask if that is not possible—I mean, so far as constitutional limitations are concerned?

Mr. THELEN. My answer would be this: As long as you keep yourself within the power delegated by the Federal Constitution—that is, your power over post offices and post roads—and as long as you reasonably exercise that power, you can make it stick; but if you go beyond the power specifically conferred by the Constitution, or, purporting to act within that power, act unreasonably, I think it will not stick. As to what the view of the Supreme Court will be on this or that or the other legislation purportedly enacted within the power over post roads, I do not know.

Mr. SIMS. It is your opinion that Congress has the power under that law for the purpose of carrying mail as Congress shall declare it shall be carried to acquire every railroad in the United States; in



other words, has not Congress the power under the Constitution to declare that a railroad is a postal facility and necessary to the Government in discharging that function and may acquire every railroad in the United States and use it for that purpose?

Mr. THELEN. If I were the advisor of the Government at the time it undertook to acquire the railroads, I should base my opinion in part, but not entirely, on that clause of the Federal Constitution dealing with the power of the Government to establish post roads. I would also rely on the general-welfare clause, and there may be others. The Government has the power to establish post offices and post roads. Just at the present moment I do not quite see why, under that power, it could not also acquire the railroads as post roads; but I want to qualify my statement by saying that I do not, at the present moment, know of any decision of the Supreme Court that bears directly on that question.

Mr. SIMS. Assuming Congress has the power to acquire facilities for delivering mail—and a railroad is a facility—then it would, after acquiring these facilities, have the power to prescribe that everything that goes on that railroad from one point to another, from one State to another, or from one point within a State to another point within the same State, is subject to the power of Congress with respect to charges, taxation, and everything connected with it?

Mr. THELEN. I do not believe I quite caught the question.

Mr. SIMS. If the Government owns the railroads and postal facilities, then it can not be limited as to the postal matter that can be carried over that facility, can it?

Mr. THELEN. I suppose if the Government owns them it could do anything.

Mr. SIMS. Then, if it can do a thing directly, can it not do it indirectly?

Mr. THELEN. You have in your Federal Constitution your commerce clause, which, indirectly at least, deprives the Federal Government of the power to regulate purely State rates. Now, facing that situation, with that clause there, I am not at all certain that you can go to another clause in the Federal Constitution, namely, the postal clause, and, working through that clause, entirely disregard the first clause. That is a matter of interpretation of the Constitution which will have to be passed on by the Supreme Court some day.

The VICE CHAIRMAN. I think you could rely very faithfully on the military clause in the Constitution, because we are in war now, and the people appreciate the situation, and we could possibly go ahead with this matter claiming that it is necessary in preparation for a possible future war.

Mr. THELEN. I agree, under the inference of Judge Adamson's question, if you can acquire them under the postal clause you can also acquire them under the national defense clause.

Mr. SIMS. Now, under the clause you just referred to, to regulate interstate commerce—and commerce if carried in the mails does not deprive it of the character of commerce under the Constitution—it is a fact that the United States may prescribe what the transportation charges shall be of pure traffic carried from one point in one State to another point in another State if carried as mail matter.

Mr. THELEN. I see what you are driving at, Judge, but I can not agree with the conclusion you have reached. You say under the

postal clause the Federal Government may regulate mails both interstate and intrastate; on the other hand, you have another clause in the Constitution—the commerce clause—which says as to intrastate commerce that the Federal Government can not regulate it. The reason why the Federal Government can establish those rates for mails is that post offices and post roads are a specific matter, and it is a well-established canon, as I understand it, of statutory construction, that where you have two clauses standing side by side, one specific and one general, that the specific clause must prevail, and it is for that reason that the specific clause referring to post offices and post roads would prevail as to mail over what would be, as to mail, the general clause found in the commerce clause.

Mr. SIMS. Getting down to a practical matter, suppose the railroad companies should conclude that they can not do business profitably, leaving the powers in the several States, as now exercised by the States, and they should therefore, in order to get beyond the powers of the States, importune Congress to make everything they carry mailable matter, that there is no constitutional inhibition against such legislation, could not they—the railroads—through the postal laws of the country, shut out the States from any possible control of transportation, as to points wholly within one State?

Mr. THELEN. I understand the idea of our railroad friends is to do that thing far more directly, in reliance on the post-office clause, in reliance on the war clause, and in reliance on the commerce clause, namely, simply to create a Federal corporation, the statute reciting that this is necessary or done in pursuance of the post-office power, also the war power, and the commerce power, and in that statute to provide that the States shall not establish any rates on these railroads. Their reliance is in part, I understand, on the same clause to which you refer, but, as I understand the plan, they propose to get at the matter a little more directly than you have in mind.

Mr. SIMS. They propose to nationalize the service, so far as rates are concerned and so far as the State control is concerned, to the extent prescribed in the national charter.

Mr. THELEN. Yes; I believe that is the plan.

Mr. SIMS. They propose to nationalize the service of each railroad corporation, but do not propose to effect their national purpose through one national corporation.

Mr. THELEN. As I understand the plan, Judge, it is this, that a statute shall be passed by Congress which shall provide, in effect, that after a day certain specified in the statute no railroad shall be allowed to engage in interstate commerce unless it has first secured a Federal charter. In working out that plan any individual railroad which now exists as a State corporation is not to be permitted to engage in interstate commerce unless that particular railroad becomes a Federal corporation; and so, as I understand the plan, it will not decrease the number of railroads. In other words, every State railroad is to become a Federal railroad, and every one of those corporations is to have the same stock outstanding and the same securities outstanding as at the present time. So, in direct answer to your question, I understand their plan to be not to have one Federal railroad corporation but to have as many Federal railroad corporations as there are now State corporations. Of course, consolidation might later be effected.

Mr. SIMS. So that the national corporation, as proposed by the railroad executive committee, may not, if Congress is so disposed, be necessary, in order to effectuate the purpose contemplated. Now, it is unquestionable, it seems to me, that in order to develop the country as a nation, that all parts of it should be developed equally or at least should have the same unrestricted development facilities, and if we are to have the same unrestricted development facilities, nationally speaking, how can we have it if we have an irregular local control of the national service through each and every locality?

Mr. THELEN. You will not get that, Judge, by the mere transposition of a State corporation to a Federal corporation. You have touched on what I consider a very important question, and that is the further development of the various sections of our country by additional railroad construction. I would say that, in my judgment, the mere shifting of the form of a corporation from a State to a Federal corporation would accomplish practically nothing toward that end. In other words, there are far more fundamental considerations to which the country will have to give attention before you can accomplish that end.

Mr. SIMS. Is it not wise that Congress, being the national legislative body, should look to the development of the Nation, as such, in whole and in every part?

Mr. THELEN. I should think so.

Mr. SIMS. That should be the chief object and aim of regulation of interstate commerce through any instrumentality.

Mr. THELEN. I think it should be the object of the Nation to make the railroad systems just as efficient as they can be made, to serve all the needs of the Nation as a whole, and whatever development is necessary toward that end should be made, and it should be the Nation's business to see to it that either through regulation of existing corporations or through Government ownership that should be done.

Mr. SIMS. Is it not a fact, in the practice and operation of railroad corporations at the present time, that we have spots or sections, or localities, of overdevelopment and vast areas of underdevelopment?

Mr. THELEN. I think that is true.

Mr. SIMS. And that overdevelopment is an evil as well as underdevelopment?

Mr. THELEN. I agree on both points.

Mr. SIMS. And that legislation in the future should be directed, as far as possible, to the discontinuation of a system which brings about such conditions?

Mr. THELEN. My judgment is that wise legislation should seek, so far as possible, to do away with the effects of the duplication of facilities and service and operating expenses, such as we have had in the past, and should seek to prevent such duplication in the future, and should seek to make it possible that those sections in the country which need development will get it.

Mr. SIMS. Do you not think that it is a wise provision for public utility service that each service performed should be a compensating service?

Mr. THELEN. You are opening up a very wide field of discussion.

Mr. SIMS. Or rather I should say a compensated service?



Mr. THELEN. I understand that the courts have held on numerous occasions that a railroad company and other classes of public utilities can not make their charges as low as not to pay the actual cost of doing the service, leaving out of consideration a return on the investment and possibly depreciation and make up the deficit from other business. As I understand it, they can not legally go lower than that point, but there is a wide range between the mere cost of service and the result which is secured by adding operating and maintenance expenses, depreciation, and a full return on investment.

Mr. SIMS. Do you understand, along the line of your statement, that a railroad has not the right to render absolutely free service?

Mr. THELEN. There are a few instances in which the statute specifically authorizes the rendition of free services, but apart from those cases authorized by the statute I understand such services can not be lawfully rendered. All statutes, both State and Federal, provide that the rates charged shall be just and nondiscriminatory, but they do contain a few exceptions to that general provision.

Mr. SIMS. We have two very large passenger terminal stations at New York City, one put up by the New York Central and the other by the Pennsylvania. I will not undertake to say that my statement is accurate, but my recollection is that the cost was about \$300,000,000, which is added to the permanent capitalization of those two companies. Further, I understand there is no charge made to any person or passenger that either goes into or out of New York through those stations. I understand further that it is alleged by the railway people in charge of those two systems that their passenger business to and from New York over their own lines has been so greatly increased that they have received a compensation for the use of those two terminals—an indirect compensation—and that it comes about by attracting the passenger traffic of other systems which carry passengers to New York City, but which do not deliver them on Manhattan Island. Is it not a fact that the rendering of that free service by those two railroads, free to the passengers that take advantage of that service, is in effect giving a rebate to those passengers?

Mr. THELEN. I suppose the railroads would reply that that is not a free service. I assume that they would reply that the passenger rates they have to and from New York City are such as to include that particular terminal service.

The VICE CHAIRMAN. I suppose they would say that the other railroads do not furnish enough service to justify the rates they charge.

Mr. SIMS. If the other parties—the other railroads—do not furnish sufficient service to justify their rates, they are charging unreasonable rates.

Mr. THELEN. You can look at that from both points of view.

Mr. SIMS. Let me ask another question along the line of uncompensated service. I left Washington City and came to this great city, and I brought a trunk that weighed 100 pounds and a suit case that weighed 20 pounds. Another gentleman comes right along in the same car over the same lines from the same city and he brings only a 20 or 30 pound suit case and no trunk at all. Now, I have had a trunk brought absolutely free, as far as I am concerned, and an express service given to me by the railroads from beginning to end. That is a free service rendered by the railroad company. It is true any other passenger could have just the same service, but others do not

do it, and the railroads are not burdened either with liability or motive power cost or personal attention as to these passengers. I am not complaining about the railroads doing this. It has grown up as a practice, but in taking this whole question into view should not this committee look at all of those things with reference to revenue to be derived and charges to be made hereafter. Why should freight that goes into the freight car between these two points, paid for as freight, be burdened with the expenses necessary in order to enable the railroad company to carry my trunk weighing 100 pounds free?

The VICE CHAIRMAN. That same argument carried a little further would make them weigh you and Senator Newlands and make them charge you twice as much as they charge Senator Newlands.

Mr. SIMS. I know I have the advantage in weight. I spoke of baggage, because we all know what it means; but there is no doubt there are many millions of tons of free baggage carried every year.

Mr. THELEN. I think, if I may answer your last suggestion, I am quite confident that our railroad friends would insist that that package or baggage is not carried free. I am sure that the passenger rate covers the charge for both the passenger and the baggage. Just as some individuals occupy more room than others in passenger cars, also some may have more baggage than others.

The VICE CHAIRMAN. Some may have a better wardrobe.

Mr. SIMS. There is that baggage car loaded down with free baggage, owned by passengers who have not paid anything more than those who did not have anything that went in that baggage car. As our country gets older this will, of course, increase, and it takes motive power to carry that baggage and personal attention; and then there enters into it the feature of liability, etc. My recollection is that the receipt of gross revenue of the railroads—I may be wrong about this—that the gross revenue of the railroads is about three times as much freight revenue as passenger revenue. Do you know about what the facts are?

Mr. THELEN. I know that the freight revenue is much larger than the passenger revenue.

Mr. SIMS. And that all expenses of the railroads are discharged from all receipts?

Mr. THELEN. Yes.

Mr. SIMS. Now, if you give free service to the passenger that you do not give to the shipper of the ordinary freight traffic you make the ordinary freight shipper pay three-fourths of what the railroads have to pay to give this free service, do you not?

Mr. THELEN. If free service is given I assume that our friends will not be very slow in making application to the appropriate commissions to see that that service is compensated for.

Mr. SIMS. It may not be in a legal sense, but I am talking about it as a fact in railroad transportation. Is it not a fact that in giving the passenger uncompensated services without giving it to those who pay freight on his freight traffic a similar uncompensated service the railroad is impoverished in its receipts to that extent?

Mr. THELEN. I am afraid we can not meet on that proposition, because we look at it from different points of view. As I understand it, you look at it as free service. I do not think that is true, but that the baggage plus passenger are compensated for, at least in theory, by the passenger rate.

Mr. SIMS. I am comparing, though, the railway charges for carrying freight traffic and carrying passenger traffic, and in that way it seems to me that the freight traffic does not get the same benefits in the way of free service as is the case with the passenger service. Of course, I am not complaining of the railroads for doing this under existing practices.

Senator CUMMINS. What you mean, Judge, is that the railroad company ought to charge more for a man with a trunk than a man without it?

Mr. SIMS. I think so.

The VICE CHAIRMAN. Then, a man who has not many clothes has some compensation and consolation over the man who has a great deal, after all.

Senator CUMMINS. Some leave their clothes at home.

Mr. THELEN. I ask if you would carry that principle so far as to suggest that passengers be paid for according to their weight?

Mr. SIMS. In order to relieve the situation of any element which might possibly be considered personal, let us consider some other example.

Mr. THELEN. I am inclined to think I would get the better of that, being of smaller stature.

Mr. SIMS. Of course, there are an infinite number of details that must be disregarded. The sleeping passenger-car service of the country is being enormously increased and must continue to increase. A railroad company carries a very heavy-weight sleeping car. It takes a greater amount of the motive power of that company to carry that car than it does to carry the ordinary passenger coach. It takes a greater amount of personal attention of the employees at switching points and changing from one line to another, and the railroad company that does this does not get one cent of revenue out of it, as I understand.

Mr. THELEN. As I understand it, the passenger buys his railroad ticket, which pays the railroad company, and, in addition thereto, buys his sleeping car ticket.

Mr. SIMS. A railroad ticket is compensation to the railroad for all services rendered as a railroad.

Mr. THELEN. Yes, sir.

Mr. SIMS. You are entitled to a day coach if you want it, but here comes along a train with nothing but sleeping cars, with the very finest railroad operatives in charge of it and the best engineers and brakemen, and there are absolutely no additional passengers carried by the railroad company, but, as a matter of fact, the number of passengers is limited, because you can not put as many passengers in a sleeping car as in an ordinary day coach, and the railroad company carries that without any special additional compensation whatever, although the wear and tear upon the tracks of the railroad company is greater.

Mr. THELEN. I understand your point to be this, Judge: That it is considerably more expensive for the railroads to haul the limited number of passengers whom you find in the sleeping car than it is to haul the passengers in the day coach, who may be traveling between the same points; and I assume your suggestion would be that the compensation to be paid to the railroad—not to the sleeping car company, but to the railroad—by the man who travels in the



sleeping car should be greater than that paid by the man who travels in the day coach.

Mr. SIMS. Absolutely. Would it not increase the revenue derived by the railroad companies?

Mr. THELEN. I understand that point has been made, or will be made, in an important rate case which is now pending.

Mr. SIMS. It seems to me that it works an injustice on those who are not able to avail themselves of this facility that the railroad company affords, and that the railroad company itself, when it carries these passengers in a sleeping car, for which it charges nothing at all additional, ought to receive a larger fare from that passenger than it does from the passenger who travels in the ordinary day passenger cars. I ask if that would not amount to a very large sum of money in the United States by having some reasonable adjustment in the charges for hauling passengers, making the passengers that travel in the sleeping cars pay a higher transportation charge than they do now?

Mr. THELEN. Well, I assume that if there were a substantial increase in passenger fares it would amount to millions of dollars.

Mr. SIMS. And not in any way restrict the sleeping car travel. It would not be large enough—although it would be a reasonable one and effect a great increase in the revenues of the railroads—but it would not be such a charge as would prevent persons from using the sleeping cars.

I have spoken of these two things, because they appeal to the human side of us, but is it not a fact—and I am not blaming the railroads for it, because competition brings about many things that would not exist without it—but is it not a fact that there are hundreds of millions of dollars which might be saved by having a reasonable charge for all services performed by a railroad company?

Mr. THELEN. The Interstate Commerce Commission, I believe, in a number of cases has drawn the attention of the carriers to certain uncompensated services and has drawn their attention to the possibility of establishing reasonable charges for those services.

Mr. SIMS. And thereby secure additional revenue for the railroad companies?

Mr. THELEN. Yes, sir.

Mr. SIMS. Is it not the tendency, at the present time, under present conditions, that wherever a railroad company finds it is not getting all the revenue it should receive, that its efforts is to increase rates, as a rule?

Mr. THELEN. We have had such applications in the past.

Mr. SIMS. And may have more?

Mr. THELEN. May have more; yes, sir.

Mr. SIMS. If they have to have more revenue—and they will have to have it or go into bankruptcy—could not those revenues be so acquired without an increase of freight rates?

Mr. THELEN. In response to that suggestion, I will say that the Interstate Commerce Commission, in the Five Per Cent Advance Rate case drew the attention of the carriers to two possible ways of increasing their revenue other than by increasing the existing rates. One way was to impose reasonable charges for the so-called uncompensated services and the other was to reduce their operating expenses by greater efficiency as suggested by the Interstate Com-

merce Commission. I assume it is entirely proper to say that whenever an application is made for an increase of rates, consideration should be given to both of those questions, in addition to the bare question of raising the existing rates.

Mr. SIMS. I want to ask you this question, and then I shall stop, whether or not you think there is a real and substantial danger, through the unrestricted exercise by the States of the powers which they have now a right to exercise, of impairing the national service of the railroads?

Mr. THELEN. I will say this, Judge, that the national service of the railroads could be impaired by unfair or unjust action either by the States or the Federal authorities, and that this possibility is inherent in all public regulation of all public utilities. But if you ask the question whether the existing order of things, by which the Federal Government commands in one sphere and the States command in another sphere, substantially impairs the ability of the railroads to properly render their service, I say no. The condition in which many railroads now find themselves, in my judgment, is only to a very slight extent due to our dual system of government and to regulation, first, by the Interstate Commerce Commission, and, secondly, by the States. In my judgment their difficulties, which we all appreciate and sympathize with, are due to entirely different causes. A mere change in the method or machinery of regulation as between the Nation on the one hand and the States on the other hand will accomplish very little, if anything, along constructive lines.

Mr. SIMS. Your idea is to confine the States to that which is purely of State character?

Mr. THELEN. Yes, sir.

Mr. SIMS. And that all over that the States should leave to national regulation?

Mr. THELEN. Yes, sir; and to show that we are fair about the matter, the States are willing to give up all authority we have over the issue of railroad securities. The principle we follow is this, that whatever the National Government can best do for our people should be done by the National Government, but that whatever can be best done by the States should be done by the States.

Mr. SIMS. I do not want to announce that I am through asking questions, but I am willing to stop in order that we may adjourn.

The VICE CHAIRMAN. I trust that Judge Sims will finish before adjournment, as we should like to take up another witness to-morrow.

Mr. THOM. May I say a single word before you adjourn?

The CHAIRMAN. Certainly.

Mr. THOM. Of course, I appreciate this is not the time to set forth the views of the railroads, nor to go into any general corrections of any misinterpretations of their attitude. We are, however, very far removed in point of distance from the hearings which have already occurred, and there has been one matter stated as the attitude of the railroads which would be so hurtful, as it seems to me, if not corrected, that I ask a moment simply to state the misinterpretation on that one point. The suggestion here has been made that the proposal made by the railroads with respect to leaving taxation to the States has been made as a temporary expedient and in the first instance, to quote Mr. Thelen. I wish to say that no such idea is in the minds of the railroads in respect to this matter, which is to leave the matter

of taxation of the railroads to the States, just as the matter of taxation of national banks incorporated by the Federal Government is left to the States and has been in the States since the formation of those banks, more than 50 years ago. We have no covert purpose, no reservation, but we are advocating the policy of leaving the power of taxation of railroads, although incorporated under the Federal Government, to the States, just as the Federal authority leaves the taxation of the national banks to the States, and that is a matter not intended to be in the first instance, but is without reservation, and is the statement of our view as to what is a proper national policy.

Mr. ADAMSON. I move that we adjourn until 10 o'clock to-morrow morning, and that we sit until 12 o'clock, and that on succeeding days we sit from the same hour until 1 o'clock.

The CHAIRMAN. If there is no objection, that will be the order.

Whereupon, at 12 m., an adjournment was taken until to-morrow, Friday, November 2, 1917, at 10 o'clock a. m.

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### FRIDAY, NOVEMBER 2, 1917.

#### CONGRESS OF THE UNITED STATES, JOINT COMMITTEE ON INTERSTATE COMMERCE, *San Francisco, Cal.*

The joint committee met in the Palace Hotel at 10 o'clock a. m., in pursuance to adjournment, Senator Francis G. Newlands presiding.

The CHAIRMAN. The committee will come to order. Before we proceed with the hearing I wish to ask whether there are any of the State commissioners or commercial bodies or individuals other than those enumerated yesterday that would like to be heard before this committee?

Mr. McCARTHY. I have a telegram from the Merchants' Association of Spokane. The Spokane Merchants' Association state that they desire to be heard here and would like to know as to the date they can be heard on the fourth section.

The CHAIRMAN. What would be a convenient date for them?

Mr. McCARTHY. I am not in a position to state. I have just received this telegram from them, and I assume that any time after two or three days would suit them.

The CHAIRMAN. Will you communicate with the clerk and fix a date? Some day next week we will hear them. The clerk informs me that he has put Spokane down for Tuesday of next week.

Mr. McCARTHY. I will wire them to that effect.

Mr. EDGERTON. Mr. Edgerton, from the California commission. Holding a view perhaps somewhat different from any State commission in the matter of Federal control, I do not wish to force myself upon the committee, but if they should care to hear from me, I shall be glad to avail myself of the opportunity to appear before you.

The CHAIRMAN. We should be very glad to hear from you, if you will arrange for a day with the clerk.

Are you ready to proceed now, Mr. Thelen?

Mr. THELEN. Yes, sir.



## STATEMENT OF MR. MAX THELEN—Resumed.

Mr. SIMS. Mr. Thelen, does not the taxation of public utilities to the extent that it is a burden upon the revenues of the utility impair its ability to serve the public?

Mr. THELEN. I suppose that this is a perfectly fair statement, that all the money that is spent in the shape of taxes is therefore unavailable to pay operating expenses or a return on investment or to provide for a surplus. I suppose that is a fundamental proposition.

Mr. SIMS. Under the idea or theory that the public utility collects its revenue from the public, to collect it from the public and give it back to the public is a kind of process that does not seem to have very much economic value in it, as a general proposition. In the taxation of public utilities, the property which is called localized property, the taxes collected from the localized property remains in the locality; that is, it is expended in the locality from which it is collected.

Mr. THELEN. That is generally the case, I suppose.

Mr. SIMS. And to that extent the burden of local taxation that has to be paid out of the general revenues of the public utility is a burden upon the entire service to the public and not alone that portion of the public served in that particular locality.

Mr. THELEN. Of course, there are different systems of taxation. In this State the operative railroad properties do not pay taxes to the local authorities. Taxes paid by the railroads on operative property are paid into the State treasury and used for State purposes.

Mr. SIMS. There is a tax upon localized property for strictly local purposes, is there not?

Mr. THELEN. Not on operative railroad property. As far as operative railroad property taxes are concerned they are paid exclusively into the State treasury. The railroads pay a certain per cent of their gross revenues into the State treasury, and that pays all their taxes on all their operative property; but where you find nonoperative property that is not used in railroad service, the taxes on that property are paid to the counties and cities and towns. But that property is relatively small in amount.

Mr. SIMS. But it is paid out of the general revenues of the company?

Mr. THELEN. Yes, sir.

Mr. SIMS. And not confined to the revenue received from that particular locality?

Mr. THELEN. Yes, sir.

Mr. SIMS. Is it not a fact, Mr. Thelen, that the lack of uniformity in tax laws in the different States of the Union is such that the taxation of one State sometimes bears more heavily upon the resources of a public utility than that of other States served by the same utility?

Mr. THELEN. That might be so where the taxation is upon a different percentage basis, and where the percentage of assessed value to real values is different.

Mr. SIMS. Inasmuch as each State is a sovereign in that respect and can make, and does make, its own tax laws, since the States do tax public utilities serving different States, one State does have the power to impair the service of that utility; that is, it has the legal

power to do so, by reason of a tax rate different from the tax rate in another State through which the same utility, like a railroad line, may go.

Mr. THELEN. I can readily imagine a case where a State, desiring to be unfair, could impose such heavy taxes on the railroad property in that State as to interfere to some extent with the ability of the railroad to perform its service sufficiently in the other States through which it may run.

Mr. SIMS. In order to have uniform service and uniform ability to serve, taxation should be uniformly levied and collected where the utility in question serves more than one taxing community, should it not?

Mr. THELEN. I have not worked out that situation in detail in my own mind as yet. I have some sympathy with the proposition which, I think, was made by Senator Newlands in his proposal for Federal incorporation, to the effect that some uniform measuring rod for State taxation of interstate railroads should be prescribed by the Federal authorities, but I have not worked out the details of that plan in my own mind.

Mr. SIMS. Without in some way having absolute Federal control of a railroad company, how can Congress prevent a State, within its powers, from levying such taxation on railroad property in its limits as it sees fit?

Mr. THELEN. The Federal authorities have power over railroads to the full extent permitted by the commerce clause, and if the Federal Government has the constitutional power to prevent undue discrimination in taxing by State authorities, it has that power now and can exercise it by direct legislation.

Mr. SIMS. Without reference to a national charter?

Mr. THELEN. Entirely without reference to that.

Mr. SIMS. As I remember now, the State of New Jersey taxes railroads \$3,000 per mile of line—that is, \$3,000 per mile of line within its borders. The State of Texas collects \$200 per mile within its territory. Is not such a difference in taxation between the two States, assuming the same line of railroad should go through these two States, so unequal as to impair the services in Texas possibly on account of the excessive or extraordinary tax burden imposed on that same utility in another State, in this instance New Jersey?

Mr. THELEN. Before I pass judgment on that, Judge, I should have to know the real property values of the railroads in New Jersey as distinguished from Texas. It may be that the property value of the railroads in New Jersey is very much higher than in Texas, and if that is the case one would suppose that the taxes paid in New Jersey would be considerably higher than those paid in Texas. I have no personal knowledge of the railroad property values in those two States.

The VICE CHAIRMAN. I believe, Judge Sims, the method generally pursued by the railroads to equalize a situation of that kind would be to raise the Texas rate in order to equalize the New Jersey rate. The railroads always raise rates whenever they want to equalize a situation.

Mr. SIMS. Confining the service of a public utility to the public absolutely and exclusively, is not taxation of any kind illogical?

Mr. THELEN. I do not know as I would say that. Of course, the public pays the bill in the long run, or is supposed to pay the bill in the long run. I would not be prepared to say that the taxation of a public-utility property is illogical.

Mr. SIMS. I mean in a generic sense. I do not mean there is anything wrong about the present proceedings; but do you think it is logical for a State to tax its own capitol building?

Mr. THELEN. I understand that property which is publicly owned by the State is not taxed.

Mr. SIMS. Because you would be taking something from the State and giving it back to the State. Now, if it is not logical to tax publicly owned property of the State or county for State or county purpose, why does not the same doctrine apply to a strictly public-utility service?

Mr. THELEN. I suppose the reason why it is not the same is that up to the present time most of the public-utility property is not publicly owned but privately owned, and therefore is taxed as other privately owned property.

Mr. SIMS. Is not the theory that underlies private ownership of public utilities based on the idea that a private company can, by giving its special attention to the particular public service, serve the public as cheaply and as well as the public could serve itself, at such a difference in cost as would give the private company a profit between the actual cost to the private company and what it receives from the public?

Mr. THELEN. I do not believe, Judge, that the private ownership of public-utility properties has arisen on any such theory. As a historical fact, private capital has gone into the development of those properties before the public had thought of owning them. I think the historical fact is that private capital was there first.

Mr. SIMS. Is not the true theory of public-utility service based on the idea that the public should receive the service at the cost of rendering that service?

Mr. THELEN. Well, the Supreme Court of the United States has said in a number of cases, which I think establish the law on that question, that the utilities shall receive rates—unless those rates are unreasonably high—which will yield it operating expenses, depreciation, and a fair return on what the courts call the fair value of the property. I am not quite sure whether that corresponds with your idea of the cost of service. I think it does not, because the rate of interest that is allowed is generally somewhat in excess of the cost of the money, so that there is an element of profit in there in excess of the cost of service. Apart from that one feature, I suppose the principle which has been announced by the Supreme Court is the principle of the cost of service, provided that the rates thus established will not be unreasonably high from the point of view of the public. There are cases in which the rates would be so unreasonably high that the rates actually established by the public authority do not yield a full return on the fair value of the property.

Mr. SIMS. Do you hold to the idea or theory that public service can be rendered through private agencies equally as well and more economically to the public than it can be rendered by the public through its own agencies—direct agencies?



Mr. THELEN. In the past that has to a considerable extent been true. As to whether that is true in the future or not will depend to the extent to which the public can work out a system for the economical and efficient administration of public-utility properties. I am not prepared to say that in the long run private operation must necessarily be cheaper than public operation when you take into consideration the lower cost of money to the public and other elements that have to be considered.

Mr. SIMS. Then you do draw a distinction, practically, in public ownership and public operation.

Mr. THELEN. I can imagine these two situations, Judge: I can imagine, on the one hand, the railroads being publicly owned, but operated by private concerns to whom the privilege of operation is leased out, and, on the other hand, I can imagine a case where the railroads are both publicly owned and publicly operated. I think consideration should be given both to ownership and operation.

Mr. SIMS. From the standpoint of capital charge I suppose you will admit that Government ownership of property itself might be more economical than private ownership of property, but as to operation, private operation might possibly be more economical than public operation by officials appointed by the Government to perform that particular service.

Mr. THELEN. As far as the ownership of the property is concerned and the charges in connection therewith, I believe it will be generally conceded that the Government has always been able to borrow money cheaper than private individuals, so the rates of interest will probably be less in the case of public ownership than in the case of private ownership. As far as expense of operating the properties is concerned, that is a matter as to which there is considerable difference of opinion. Those who favor private ownership say that private ownership will be able to operate those properties considerably more cheaply than can be done under public ownership. That is a subject of considerable argument.

Mr. SIMS. I know it is, but this is a very broad resolution that we are working under.

Now, Mr. Thelen, suppose we continue just as we are. The railroads serving the public own their terminals and other property. As the values in the community in which a particular terminal is located increase the commercial value of that terminal the localized property of the railroad increases also and will not the railroad be entitled to an earning equal to the fair value upon the increased community value that is added to its localized property?

Mr. THELEN. That is a question, I think, Judge, which has not been determined with entire definiteness by the Supreme Court. The last word I know of from the Supreme Court on that question is contained in the Minnesota rate case. In that case the court held that the railroads ought to be satisfied if they secure a value for their lands—and I suppose you refer to all terminal lands—not to exceed the fair market value of lands of similar character in that vicinity without the application of so-called multiples or of overhead percentages. As I say, the court stated that the railroads should be satisfied if they receive a value not to exceed that. What the Supreme Court will finally say on that particular question, whether that is the value or only the maximum value, I do not know.

Mr. SIMS. Coming back to the taxation proposition, here is a block of property in San Francisco used and occupied by a railroad company. It is now worth—its value for taxation purposes—\$1,000,000. The railroad company pays on the rate of a million dollars of investment, and it would be allowed, I suppose, in a question of rates to regard this million dollars as a part of the capital on which it should have a reasonable earning. In a few years, without anything being done by the railroad itself to this particular property, it becomes worth \$2,000,000. The public would tax it as worth \$2,000,000; that is, as of the value of \$2,000,000; whereas it does not add to the facilities of the railroad to perform the services of a railroad by reason of that increased value, but if you tax the railroad company on the amount of the increased value, will you not have to allow the railroad company an earning, not on that particular property, but on all property, on the basis that it is worth now \$2,000,000 instead of one million?

Mr. THELEN. That is one of the great disputed questions before the Supreme Court. I think I will agree with you in the inference which is contained in your question to the effect that very serious consideration must be given to the question of the so-called unearned increment of land devoted to railroad uses. I suppose this committee, and the country as a whole, in the solution of the railroad problem, will give careful consideration to the fact that railroad terminal properties are mounting tremendously in value as real estate, and if the increase continues as it has in the past, if rates continue to increase with the increase in value of those terminal properties we may be confronted with rather a serious situation in so far as the question of rates is concerned.

Mr. SIMS. Now, if the Government owned this fixed property, then the Government, not paying taxes on its fixed property, would not be entitled to an increased earning on the railroad line on account of the increased burdens growing out of the community value of that terminal.

Mr. THELEN. I suppose that the Government could fix its own rates. I am not at all certain that the rules of the Supreme Court, as established in connection with rates for privately owned property, would apply if the Government itself owned the railroad systems and operated them.

Mr. SIMS. As long as the railroad properties are owned privately, either through companies chartered by States or by the Nation, the property can and will be taxed as private property.

Mr. THELEN. I suppose so.

Mr. SIMS. Which will include the unearned increment of community value. Therefore, the railroads will always have to pay an increased tax on the increased value of the land which they occupy and use for public purposes, but which brings to them no increased earnings as a public carrier.

Mr. THELEN. I am not so sure that they do not receive increased earnings. Their claim is that, in determining the fair value of the property on which they should be allowed rates, the entire so-called unearned increment should be added to their property values.

Mr. SIMS. That is their contention now?

Mr. THELEN. Yes, sir.

Mr. SIMS. Will we not have to increase the capitalization of railroads if they have to continually pay taxes on unearned increment in property which really is not necessary to the performance of any transportation service? And if we have to pay for all of this by increased rates, when will the time come when there will be stability in rates? When will they stop increasing?

Mr. THELEN. I do not know. I suppose the railroads can answer that better than I.

Mr. THOM. I think you had better stop now.

Mr. SIMS. Is not the present problem—operating railroads as privately owned property—to give them more revenue without increasing rates? Is not that the real problem?

Mr. THELEN. I do not know that I would agree with you entirely.

Mr. SIMS. I am asking a question and not stating a proposition.

Mr. THELEN. I would say this, that when applications for rate increases are made, that we should give very careful consideration to, first, the so-called uncompensated services which the railroads might perform; secondly, to the possibilities of decreasing their operating expenses; but if, after we give consideration to those elements, we find that existing rates do not give them a fair return, then I will say that we shall have to raise the rates.

Mr. SIMS. Every time a rate is raised, is not the public that has to pay it thereby injured to the extent of the gross increase; that is, to the extent of the full amount of the raise? Is it not a burden to that extent, without any compensating feature growing out of the increase?

Mr. THELEN. The fact is that they pay out that much more money.

Mr. SIMS. That is, they have that much less profit in the business done through the railroads?

Mr. THELEN. Yes, sir.

Mr. SIMS. And the problem is to reduce rates as time goes on and at the same time, if the property is to be continued under private ownership and increased burdens are to be put upon the property, the roads have to get the revenue from some source or other, and one of the sources suggested yesterday was the abolition of all uncompensated services—passenger, freight, and other kinds. Do you think the public will stand for increasing freight rates without undertaking to relieve itself?

Mr. THELEN. No; I think not. I believe that if we are to be confronted with ever-increasing freight rates the public will continue to give more and more serious consideration to some other solution of the problem—either to Government ownership of railroads with private operation or to Government ownership and operation of railroads.

Mr. SIMS. If the railroads will have to continue to increase their capitalization by the acquiring of additional expensive terminals that of themselves do not bring any additional revenue, how are they to do this without increasing rates? How are they to meet ever-increasing terminal cost or investment cost on which they must pay interest or dividends—because it is a part of the capitalization of the company—how can they do it without resorting to increases in rates if we do not resort to the theory we have just been speaking of, of having a reasonable and just compensation for every service performed by the railroad companies?



Mr. THELEN. With reference to every piece of railroad terminal property which a railroad acquires, it, of course, is required to pay interest on that investment, but as the value of the property increases with the growth of the community the amount of interest on that investment does not grow, because the investment is the same. It is the same as it always was.

Mr. SIMS. But capitalization, the capital stock issued, will have to pay dividends in addition to the mortgage that is put upon the property.

Mr. THELEN. The mere increase in the value of the terminal property in the market does not result in an increase in the securities issued against that property. A certain amount of securities is issued against the property when it is first acquired, and that is all. The mere fact that the value of the land in the market rises would not, in my judgment, justify an additional issue of securities against that property. In other words, the securities thereafter issued are issued and the proceeds used for extensions and betterments, etc., but no securities are issued to represent the so-called unearned increment in the value of the land. If the securities should keep mounting as the value of the land goes up, it is entirely true that the dividends and interest charges which have to be paid would have to be increased. My point is that the mere fact that the value of the land increases would not justify an increased issue of securities against that same property.

Mr. SIMS. As a matter of fact and as a matter of practice, does not that practically result now, or follow?

Mr. THELEN. I do not know what the effect is or what the result is in States which have no control over the issues of securities of railroads. It certainly is not true in this State. No such applications have been made in this State, as far as I know.

Mr. SIMS. As a rule, are not the terminals owned by terminal companies that issue their own stock?

Mr. THELEN. I believe it is true in some States.

Mr. SIMS. Is it not true of many of them?

Mr. THELEN. It is true in some large cities of the United States. I think it is true in St. Louis, Chicago, and in some other large cities. In San Francisco the State owns and operates the Belt Railroad.

Mr. SIMS. Where it is true, is it not, in fairness and justice, right that that company should make a terminal charge for the terminal services rendered to the public, and that the terminal charge should not come out of the entire public using the line that goes into or out of the terminal station?

Mr. THELEN. I have not given sufficient thought to that to be able to answer that. I do not want to get into the so-called switching cases, with which those here are well acquainted. It has been held that the through rate includes the so-called switching service, which is, in effect, a terminal service.

Mr. SIMS. Congress can regulate these things or any instrumentality of interstate commerce, as I understand it, and a terminal company that serves an interstate road, it seems to me, is an interstate corporation, although it may be entirely located within a State.

Mr. THELEN. We will all agree that compensation should be paid for the service; whether that compensation should be a separate item or included in the through rate is an entirely different matter.

Mr. SIMS. Mr. Thelen, my excuse for asking so many questions is that you have given this subject a great deal of study both from the National and State aspect, and not simply confining your studies to the State situation. We have to look at this from the national viewpoint as well as the local.

Mr. THELEN. I shall feel greatly pleased if, in my efforts to answer your questions, I have thrown any light on the matter.

Mr. SIMS. Not wishing to appear critical, I wish I had a chance to examine you for a couple of days, on account of the information the country would derive from your answers. I thank you very much for your patience.

Mr. THELEN. I hope that I have been useful.

The CHAIRMAN. You are the chairman of the legislative committee of the Board of State Railway Commissions?

Mr. THELEN. No, Senator; I am not the chairman. Senator Bristow is chairman. But I am a member of the committee on State and Federal legislation.

The CHAIRMAN. How many are on that committee—how many members?

Mr. THELEN. There are seven members, with the president of the national association as ex officio member. The new president of the national association is Edward C. Niles.

The CHAIRMAN. Will you give the names of the members of that committee?

Mr. THELEN. I shall do so to the best of my ability. I can give the names of most of the members. There are one or two vacancies which I believe have not been filled, but the members, as I understand them, on the new committee, as far as it has been appointed, are Senator Bristow, of Kansas, as chairman; Commissioner Carl D. Jackson, chairman of the Railroad Commission of Wisconsin; Commissioner Frank H. Funk, of the Public Utilities Commission of Illinois; Commissioner Laurence B. Finn, chairman of the Railroad Commission of Kentucky; Commissioner William G. Busby, chairman of the Public Service Commission of Missouri; Commissioner C. M. Candler, chairman of the Railroad Commission of Georgia; Commissioner Edward C. Niles, chairman of the Public Service Commission of New Hampshire, ex officio member; and myself.

The CHAIRMAN. Has the committee, as a committee, come to any conclusion as to the national incorporation of railways or expressed their views upon that subject?

Mr. THELEN. The committee, as a committee, has reached a conclusion. We have not been able to confer with Commissioner Busby of Missouri. He has not attended the meetings, but the views of the other members of the committee are as one on the question.

The CHAIRMAN. They are in opposition to national incorporation?

Mr. THELEN. They are in opposition to the plan of national incorporation as here presented by the railroads—a very decided opposition to that plan. They are in opposition to what they think is ultimately to be accomplished by the plan of Federal incorporation as presented by the railroads. I do not believe I could say, though, that they are necessarily in opposition to every plan of Federal in-

corporation which could be suggested; in other words, there might be some plan of Federal incorporation which would be really constructive in character, which would accomplish results which they might think ought to be accomplished, and from what I know of the members of the committee, I would say that if such a plan were presented they certainly would not say, offhand, they are in opposition to it. In fact, I think, some members of the committee might be in favor of it.

For instance, suppose that the Government should acquire the railroads, but suppose, instead of operating them, it should parcel out the country in various sections, say four or five large sections, in each of which sections the railroads are to be operated as a unit. It might be that in a case of that kind, it might be desirable that those four or five large railroad systems should be Federal corporations. I assume, of course, that in a case of that kind the railroad properties would be taken over by the Federal corporations simply at their fair value and not necessarily for the amount of the outstanding stocks. That is one class of case in which Federal corporations might be desirable. Of course, that is by no means the suggestion presented to the committee by the carriers.

The CHAIRMAN. Then the position of this committee, as I understand it, is not one of opposition to Federal incorporation per se, but to the particular plan which has been suggested, and which you term the railroad plan.

Mr. THELEN. Well, we certainly object to the railroad plan, and going further than that, we would like to examine any other plan of Federal incorporation that may be presented, but our minds are open on it.

The CHAIRMAN. And I wish to approach you in that frame of mind.

Mr. THELEN. With reference to that last point——

The CHAIRMAN. I would like you, Mr. Thelen, to understand, as you probably know, that for 10 years or more I have been urging national incorporation, and I still believe in it. I would be utterly lacking in candor if I did not say I believed in it thoroughly.

Now, dismissing from our minds the proposed railroad plan or any other, let us address ourselves to see if we can not agree upon certain essential elements on whatever form of organization that is adopted.

Mr. THELEN. May I suggest, Senator, that in my last statement I represent solely my own views.

The CHAIRMAN. Certainly.

Mr. THELEN. I should not like to bind the other members of the committee on that particular question, because I have not taken that up with them. I want to be fair with them, so that if they want to disagree later on they can do so. The views expressed are my own.

The CHAIRMAN. Have there been any expressions in the meetings of the commissioners themselves—general expressions—which would indicate that the State railway commissions have fixed views in opposition to any form of national incorporation?

Mr. THELEN. The attitude of the State commissioners, as I know it, so far, has been confined to what has been presented to this committee, and with a few exceptions the sentiment of the State commis-



sioners is practically unanimous against that plan. Nothing really constructive, in our judgment, has yet been presented by the railroads to this committee in connection with the plan of Federal incorporation, but if something really constructive should be presented to the committee, which plan would include, as one of the elements, Federal incorporation, I am sure the State commissioners would give it careful consideration, and I know some of them would be in favor of it. I qualify that by assuming that something really constructive would be presented. As I view the railroad proposition, it gets nowhere. It does not remove duplication of facilities; it does not remove duplication of service; it does not strengthen their financial structures; and it does not bring a single dollar into their treasuries. It does not do anything constructive, in my judgment, to solve the railroad problem.

The CHAIRMAN. Addressing ourselves to that point, and dismissing entirely from our minds consideration of the so-called railroad plan, I would like to ask you a few questions. What police powers does your commission exercise in the State of California?

Mr. THELEN. That depends, I suppose, Senator, on the definition of police powers. The courts have said that all regulation of public utilities may be referable to the police power. Viewing the matter in that broad aspect, I suppose the regulation of rates, the regulation of security issues and the regulation of service, facilities, and safety could be defended under the police power.

The CHAIRMAN. Now, with reference to this exercise of the police power as to the issues of bonds and stocks, you say that the sentiment of the State commissions is that that power should be exclusively exercised by the National Government. What considerations lead you to come to that conclusion?

Mr. THELEN. I want to say that I believe that is the sentiment of the great majority of the State commissions. I understand there are some who desire that the States retain that power. Expressing the majority view and my own views, taking first the question of capital stock, I understand that no State has the right to control the issue of capital stock by a foreign corporation. It frequently happens that a railroad, doing business in State A, is incorporated under the laws of State B. State A is absolutely powerless to prevent the issues of additional capital stock by this railroad incorporated under the laws of State B. If State B itself provided for adequate regulation of the issuance of stocks by railroads, the situation might not be so serious, but a number of railroads have been incorporated under the laws of States which do not provide for the control of issues of stocks of railroads or other public utilities, and in those cases State A is helpless, because the railroad is incorporated under the laws of State B, and State B does nothing because it has not provided for the control of stock issues. Therefore, it would seem that the only way to secure adequate control over those issues of stocks is by the Federal Government. That covers in a sketchy way the matter of capital stock.

In the absence of regulation by the Federal Government as to bonds quite a number of States have assumed jurisdiction over bond issues by interstate railroads, so far as those bonds constitute a lien on the property of the railroads located within those States. The States have done that because the Federal Government has not seen

fit to go into that field, and because it seemed that something ought to be done. Now, there are serious embarrassments which follow from that condition of things. A railroad may run through, say, 12 or 13 different States. If each of those States should assume jurisdiction over the bond issues of that railroad, the railroad would be confronted with one of two alternatives; it would either have to do what is the businesslike thing to do and make the bond issue a lien on the entire system, or do the extremely unbusinesslike thing of having separate bond issues, each issue being a lien on the property in a certain State. The latter method is so unbusinesslike and so cumbersome that I do not believe any financier would recommend it.

Going back to the first proposition—that is, the situation in which the bond issue is a lien on the entire system, if it is necessary for the railroad to go to each of a number of State commissions, say, 2, 3, 8, 10, or 12 of them to secure the consent of each commission to issue these bonds, considerable delay and confusion may result. There have been instances in which certain conditions have been insisted upon by one State commission and not by another, and embarrassment has resulted from that. Now, I believe that our people ought to do everything we possibly can so that when a carrier desires to issue securities, such as bonds, that the necessary consent shall be promptly secured and that there shall be as little delay and confusion as possible. If the Federal Government should control the issues by the carriers of bonds, the matter could be disposed of at a single hearing. The State commissions affected might be given notice, so as to appear and protect the public interests in their various States, but, in general, the matter could be promptly disposed of. I think that would be of great advantage to the carriers, because it would enable them to take advantage promptly of favorable market conditions, and being advantageous to the carriers, it would, of course, be advantageous to the public as a whole. Although quite a number of the States have assumed jurisdiction, because the Federal Government has done nothing along those lines, I think most of the commissions that have jurisdiction, including my own commission, certainly would be very glad to see a plan worked out by which the Federal Government can control the issue of stocks and bonds of all interstate carriers; can control their consolidations, their mergers, their sales, and their leases, provided—and I should like to lay particular stress on this proviso—that the necessary machinery is given to the Interstate Commerce Commission so that it can handle these matters promptly. There is no branch of public regulation of railroads that so much requires prompt action as the issue of securities.

The CHAIRMAN. Then, whilst recognizing the control of stock and bond issues is a police power in the State, the judgment of the commissioners is that the interests of the States and of the Nation at large would be best served by the exercise of that power by the Federal Government under proper law?

Mr. THELEN. There are peculiar reasons which apply to stock and bond issues which, in our judgment, require that the matter be regulated by the Federal Government. We are willing where there is any branch of regulation that can be handled better by the Nation than by the States that it should be handled by the Nation, and, conversely, where any matter can better be handled by the States we

think it should be left with the States to do it, the test being what is for the best interests of the country as a whole.

The CHAIRMAN. Individually, I am in harmony with that view, I will state. Let us take up the other powers and see to what extent the public interest requires that they should be exercised by the States. Take the question of safety: Do you regulate in this State the safety of passengers?

Mr. THIELEN. Yes, sir; we do except to the extent that one or two Federal statutes, the safety appliance law and others, have been passed, and in those matters, in so far as interstate commerce is concerned, we do not, of course, claim jurisdiction.

The CHAIRMAN. You found, then, that the National Government exercises authority in that direction?

Mr. THIELEN. They exercise a limited authority and we exercise the remainder.

Mr. ESCH. You mean limited because Congress has not seen fit to enter the field and exercise the power which is vested in it?

Mr. THIELEN. That is correct.

The CHAIRMAN. Do you find that the action of Congress in this limited exercise of the powers which it has has embarrassed your commission?

Mr. THIELEN. Not at all. The action which has been taken by Congress so far, I think, undoubtedly should have been taken by Congress. For instance, you can not have a lot of freight cars in a train, some destined to State destinations and having one kind of coupling and others destined to interstate destinations and having another kind of coupling. That kind of thing would not work. Therefore, we think the Federal Congress acted wisely in that connection.

The CHAIRMAN. Now, can you state any measures which have been taken, or which you deem it wise should be taken, by the States relating to the safety of passengers that could not be adequately covered by national action?

Mr. THIELEN. Well, I will say this, that there is much that this State does in the way of safety, affecting passengers and employees, which, in my judgment, can be far better done by the States than the Nation. Take, for instance, the question of grade crossings. The officials of the State know more about that than officials located at some more distant point. With reference to clearances, that is a matter of safety that may affect passengers——

The CHAIRMAN. You mean in tunnels?

The VICE CHAIRMAN. I suggest that perhaps you have noticed that the Supreme Court has lately held as void a Georgia statute requiring trains and engines to blow and ring their bells at grade crossings, because it was an interference with interstate commerce.

The CHAIRMAN. I have not observed that decision.

The VICE CHAIRMAN. They have held that recently.

The CHAIRMAN. With reference to grade crossings and clearances——

Mr. THIELEN. As to clearances, I do not think the case is as strong as it is with respect to grade crossings. The Federal Government, not having exercised any authority in that respect, the States have gone ahead in some instances.



The CHAIRMAN. Do you think it unwise for the Government to exercise its power over inter-state commerce in relation to grade crossings and clearances?

Mr. THELEN. As to grade crossings, I should say very clearly yes. I think that is a problem that the local authorities should handle. As to clearances, I think that is a question open to argument.

Senator CUMMINS. There is a bill now pending in Congress relating to clearances.

The CHAIRMAN. Yes; I know.

Senator CUMMINS. It has been rather extensively considered by the committee.

The CHAIRMAN. Now, in what other matters besides grade crossings and clearances are the police powers of the State invoked?

Mr. THELEN. The railroad commission of California makes examination into every railroad accident of any importance involving passenger trains as well as freight trains. Our inspectors are available at a moment's notice, and they are sent out frequently in response to telegraphic advice as to the accident. They are on the job right away and investigate the causes of the accident, and then, where necessary, we take up with the carriers measures to avoid such accidents in the future. I think the local officials can be very helpful along those lines. If the Federal Government should undertake to do that itself and do it as fully and as carefully as is done by the State commissions, it would necessitate a tremendous host of employees all over the United States to handle the situation.

Mr. ESCH. It does that now under the act of 1898, under Mr. Belknap.

Mr. THELEN. To some extent, Mr. Esch; but I hesitate to say that you investigate all these accidents. I shall be glad to confer with our service inspector and let you know about that after adjournment.

The CHAIRMAN. Could you suggest—assuming that the National Government should exercise its full powers in interstate commerce over the subject of safety of passengers, and, as a part of that, over grade crossings and clearances—can you suggest any method of co-operation between the National Government and the State commissions which would be helpful in the accomplishment of that purpose?

Mr. THELEN. You mean as to grade crossings and clearances?

The CHAIRMAN. As to those things and accidents.

Mr. THELEN. I do not believe that is a case where the necessity for cooperation is as evident as in some other fields of public-utility regulation. In other words, I believe that at the present time the States can pretty well handle those things themselves.

The CHAIRMAN. Would you have the National Government exercise no jurisdiction in reference to accidents happening to trains in interstate commerce?

Mr. THELEN. I could not take that position, because I understand that in connection with existing statutes, covering certain portions of the safety field, investigations are made by the Federal inspectors. I would say, so far as the Federal Government has entered upon the field of safety, that the Federal inspectors would have to be active. In connection with these matters, I understand that the inspectors of the California commission at times arrange to have joint hearings held, at which representatives both of the Federal Government

and of the State commission are present, and they get along very harmoniously.

The CHAIRMAN. That seems to me very practical and very desirable. What I am getting at is, is it not possible under some form of national incorporation of these three corporations to regard all the interests of the States by some system of cooperation with your State commissions, in which the latter will have a great sphere of usefulness by way of suggestion or collaboration?

Mr. THELEN. I will answer you in this way, that if the Federal Government should enter into additional fields of safety legislation we would cooperate, because we try always to cooperate with the Federal authorities.

The CHAIRMAN. Would it be best, do you think, for the National Government to cover the entire field of accidents and grade crossings and clearances, or would it be better to secure a method of cooperation between the two? Which do you think is most desirable, exclusive jurisdiction of the National Government or cooperative jurisdiction?

Mr. THELEN. Referring to a part, at least, of the general field of safety regulation, I shall illustrate that by referring to grade crossings. In my judgment the matter is being properly handled at the present time by the State commissions, and the Federal Government would be throwing away money to take care of the same thing.

Mr. ESCH. The Federal statute, with reference to investigation of accidents, uses this language: "Shall investigate all accidents resulting in serious loss of life or property," and that would leave still a very broad field for the States' jurisdiction.

Mr. THELEN. The States do go beyond that.

The CHAIRMAN. As a matter of fact, you do engage in cooperative work?

Mr. THELEN. Certainly.

The CHAIRMAN. I think that is highly desirable. Now, then, as to railway facilities in general in a State, to what extent do you think the States themselves ought to have exclusive jurisdiction of that?

Mr. THELEN. You refer to such matters as spur tracks?

The CHAIRMAN. Sidetracks, stations, and freight buildings; belt lines, etc.

Mr. THELEN. I will say that, with reference to passenger stations, spur tracks, sidetracks, connections between tracks, freight terminals, and such matters, the California commission at the present time has jurisdiction sufficient to handle the entire matter. Personally, I doubt the wisdom of having the Federal Government also go into those matters at the present time.

The VICE CHAIRMAN. The Federal Government has a statute compelling the establishment of connections with those side and spur tracks when they are constructed and used in interstate business.

Mr. THELEN. It seems to me there are other matters which are so very much more important that the Federal Government should do that I do not believe it would be wise to go into these minor matters which the State commissions are handling satisfactorily.

The CHAIRMAN. Mr. Esch suggests that under the Panama Canal act we can go much further and compel them to make connections with ships.

Mr. THELEN. That is correct. That is the first action, I believe, Congress took in connection with the regulation of ships.

The CHAIRMAN. You think that in those matters, that the local commissions—the State commissions—can better protect the public interests both in the States and as regards the Nation than the National Government?

Mr. THELEN. I would say that, as far as I can ascertain, the States are handling the matter adequately, and with reasonable fairness, and I do not really see the need for action in this matter at the present time by the Federal Government.

The CHAIRMAN. It would not be difficult to establish a plan of colaboration and cooperation between the Federal Government and the State governments on this proposition.

Mr. THELEN. If the Federal Government should occupy the entire field I suppose you could have cooperation, but that would be a duplication of effort and of money and expense; and I doubt the wisdom of that.

The CHAIRMAN. You say that duplication of effort is beneficial so far as accidents are concerned?

Mr. THELEN. Yes; I think it is beneficial. There is a case where the Federal Government has entered upon the field. That, of course, eliminates all argument as to whether it is wise or unwise to enter.

The VICE CHAIRMAN. When the Federal Government takes possession of a field, it excludes local control?

The CHAIRMAN. It can.

The VICE CHAIRMAN. It does, but the State supplements it by doing the rest.

Mr. THELEN. In these accident cases, may I state that I believe that the local inspectors are sometimes helpful to the Federal inspectors, and that they are glad to have their assistance.

Mr. ESCH. One advantage is that the State inspectors can get on the ground very rapidly and preserve a great deal of the evidence with respect to accidents.

Mr. THELEN. Yes.

The CHAIRMAN. With reference to wages and hours of labor upon railroads, what is your view regarding that—that the jurisdiction should be exercised by the States or by the Nation?

Mr. THELEN. First, with reference to the question of wages, I do not understand that any State commission has authority to fix wages. With reference to the hours of service, I understand that the Federal Government has entered that field, and that it has passed the 16-hour law, which, of course, is applicable to all trains engaged in interstate commerce, so there is very little left for the State commissions.

The CHAIRMAN. Do you think it was wise for the Federal Government to enter that field or that it should have been left to the States?

Mr. THELEN. I think it was wise. The same reason that justified the passage of the safety-appliance law justified the passage of the 16-hour law. The only place where the State exercises authority is in connection with some little railroads which do not engage in interstate commerce.



The CHAIRMAN. With reference to stations and such accommodations, do you think that jurisdiction ought to be exercised by the National Government or the State commissions?

Mr. THELEN. I think that for the present, at least, the States should maintain jurisdiction.

The CHAIRMAN. Can you imagine a condition under which it might be important to exercise national authority?

Mr. THELEN. I suppose, if I permit my imagination to soar, I could imagine such a condition.

The CHAIRMAN. You see no present necessity for it?

Mr. THELEN. I see no present necessity for it; no, sir.

The CHAIRMAN. Take the case where an enormous expenditure was about to be made in terminal facilities for accommodations both of State and interstate, and perhaps foreign, commerce, and it involves such a large sum as to make the interest charges an additional burden upon all commerce, and it is necessary for the Government to act in such a case, or cases similar to it, would you have the State governments or the National Government exercise that power?

Mr. THELEN. Well, I have not observed any case so far, Senator, in which a public utility acted in such a situation, in which the matter has not been satisfactorily handled by the States. Of course, I assume an extreme case can be put which would derogate from any statement that one might make.

The CHAIRMAN. You have heard that the extraordinary amounts paid out for terminal facilities in New York have been criticized by some as an unnecessary burden upon the commerce of the country, have you not?

Mr. THELEN. I have heard such statements. I am not passing on the reasonableness of them.

The CHAIRMAN. Neither am I. Do you not regard that as a proper subject for regulation?

Mr. THELEN. Now, you are opening a very broad field, Senator. I have strong views to the effect that government—without now distinguishing between State and Federal Governments—ought to take a hand so as to prevent unreasonable and unnecessary duplication of facilities. The public has to pay the burden in the long run, and in my judgment that is something really constructive that the country ought to do.

The CHAIRMAN. Assuming that that is the correct view, would you have the National Government or the State government exercise that jurisdiction?

Mr. THELEN. I should say it would depend largely on the particular subject of jurisdiction. As far as our local problems in the way of erection of structures in this State are concerned, the thing has worked out very nicely. It might be, if the Government entered on a really constructive policy along that line, that before an entirely new railroad should be constructed—for instance, a railroad running through a number of States—the authority of the Interstate Commerce Commission should be secured in connection with the control over the security issues of such an interstate carrier. I should say it would depend largely on the particular subject, Senator, to which you address your question.

The CHAIRMAN. Take the case of the adoption of a constructive policy, such as that to which you refer, in the case of a very large

expenditure involving a burden upon commerce generally, could you not suggest some method under which the State commission could act in an advisory capacity or some other cooperative way, so as to help the public interests?

MR. THELEN. I would say this, that if the Federal Government undertook to provide for a so-called certificate of public convenience and necessity, in connection with the construction of interstate carriers, it would be advisable, in that case, to have the various State commissions through which the proposed lines were to be constructed, present and hear their views, because the State commissions would have a far better knowledge of the local conditions than would generally be the case with the central authority.

THE CHAIRMAN. Would that not be better than a condition under which the national sovereignty and State sovereignty would each seek to exercise their jurisdiction in antagonism to the other?

MR. THELEN. I understand, in any event, as the law now stands, that no State can block the entry into that State of an interstate carrier. That being the case, I suppose the primary authority in this case rests in the Federal Government.

THE CHAIRMAN. Is that the general view entertained by State commissions north, east, south, and west?

MR. THELEN. I could not say that. You are now entering upon a number of fields, Senator, on which I am glad to express my own views, but I have not taken the matters up with the other commissioners.

THE CHAIRMAN. With reference to the matter of taxation, the States now exercise the power of taxation. Do you recognize the fact that the inequalities of taxation at present existing are unfortunate as between the various States?

MR. THELEN. I suppose, Senator, that there are inequalities of taxation all over the country. There are inequalities between various people owning property in the same community. There are inequalities between towns in the same State, and I suppose there are inequalities of taxation by different States in connection with the property of some railroads. I suppose that is true.

THE CHAIRMAN. If you take a great interstate railroad system, embracing 10 to 15 States, and these States differ in policy of taxation: one, we will say, taxing simply the physical property; another relieving the corporations of any tax upon the physical property and simply taxing a certain portion of gross receipts—taking a certain portion of their gross receipts; another State taxing not only the physical property, but the value of the whole at the market value of the stocks and bonds, would you regard it better to have one uniform system of taxation of the railroads of the country than that confused and contradictory system, if it could be arranged?

MR. THELEN. I suppose you assume that the Federal Government would establish what we call a measuring rod.

THE CHAIRMAN. Yes, sir.

MR. THELEN. That is, using this measuring rod, you determine what portion of these taxes shall be paid into the treasury of each State?

THE CHAIRMAN. Yes.

MR. THELEN. I think there is much merit in favor of some more constructive system than now exists. I have not taken up that par-

ticular question with my fellow commissioners, but I think there is considerable to be said in favor of the general proposition along those lines which you incorporated in your draft of the Federal incorporation bill which you presented to Congress a number of years ago. Of course, that could be done without Federal incorporation; in other words, if it can be done under Federal incorporation, it can be done without it.

The CHAIRMAN. Undoubtedly.

Mr. THELEN. In this regard I believe I should go further than our railroad friends. I believe their proposition now is to leave taxation entirely with the States.

The CHAIRMAN. I differ with them there. I think there should be a uniform rule of taxation laid down by the Federal Government to apply to all interstate railroads.

Senator CUMMINS. Do you mean a uniform rule for ascertaining the value of the property, or a tax laid by the General Government and distributed by the State?

The CHAIRMAN. I can not say that I had any such view as to the rule itself, as to what the rule should be, as to whether it should be a rule of assessment or a rule that would take a certain portion of the gross receipts or net receipts; but I have been convinced for many years that it would be a wise thing to have a uniform rule, just as you have with reference to national banks, a uniform rule laid down by the National Government and followed by the States.

Mr. THELEN. In what I said I was referring simply to the general proposition and did not mean to go into the details as to whether the States were to be deprived of the power of saying, for instance, what percentage of the property value they shall use in their assessments. I purposely confined myself to the matter of a measuring rod.

Senator CUMMINS. You can readily see if the General Government attempts to levy a direct tax it is required by the Constitution to levy it according to the population.

The VICE CHAIRMAN. When the chairman referred to national banks I was going to ask the chairman if that provision is not based on a different provision of the Constitution than the commerce clause. That is a financial transaction.

Senator CUMMINS. Anyhow, in the case of national banks, the right of the State is simply limited. It is not supplemented by any other form of taxation. They can not tax them more heavily than they tax other property. That is the only limitation, I believe.

The VICE CHAIRMAN. Is not the authority to appoint money and regulate business based on another clause of the Constitution?

The CHAIRMAN. That enters another field of discussion, and I will not go further into that. I am glad you called my attention to this matter, but the basis of my suggestion as to a uniform rule of taxation prescribed by the National Government is that interstate railroads are national instrumentalities for the purpose of carrying out the commerce power of the Constitution, and the power to tax involves the power to destroy, and therefore the States have no power and no right, without the sanction either expressed or implied of the National Government, to impose a tax on a national instrumentality, and the National Government, having the power to exempt them altogether from State taxation certainly has the right to lay down the rule or measure under which the State shall impose the tax.



Now, then, we have covered the questions of bonds and stocks and stations, grades, sidetracks, facilities, taxation, hours of labor, and you have given your answers with reference to those. Would you deem it wise for the States to exercise their police powers with reference to the hours of labor on railroads?

MR. THELEN. As to hours labor, I believe I have already covered that.

THE CHAIRMAN. Would you deem it advisable—the Nation has acted—would you deem it wise also for the States to act?

MR. THELEN. I understand that the Nation, having entered that field in so far as interstate commerce is concerned, that the States are precluded from action.

THE CHAIRMAN. Do you mean the States, for instance, can not prescribe a less number of hours than the Nation?

MR. THELEN. I doubt that the States could do that, Senator. I believe that that question, or almost that identical question, came before the Supreme Court in connection with an hours-of-labor statute from the Northwest—possibly from the State of Washington. I believe that the Supreme Court there held that the Nation, having entered that specific field, action by the States in that particular field was precluded.

THE CHAIRMAN. Now, coming to the question of rates, Mr. Thelen, I have seen it stated that of the total railroad business of the country, about 85 per cent is interstate and 15 per cent State business. Do you agree with that statement?

MR. THELEN. I am not sure, Senator, whether that statement is true over the country as a whole. It may be true. I have no definite information as to that. I thought that this committee would be interested to have the exact facts so far as this State is concerned.

THE VICE CHAIRMAN. My recollection is that when Mr. Thom was before the committee he had some correspondence with some railroad presidents that fixed the interstate as about 85 per cent of the business that cross the State line, and about 15 per cent stopped within the State in which it was originated.

MR. THELEN. The statement prepared by the auditing department of the California commission shows that so far as the Santa Fe is concerned, in 1916, 44.1 per cent of the California business was intrastate and 55.9 per cent was interstate; as far as the Southern Pacific is concerned, 56.9 per cent was intrastate and 43.1 interstate; as far as the Western Pacific Railroad is concerned, 48.7 per cent was intrastate and 51.3 per cent interstate; as far as the Los Angeles & Salt Lake Railroad is concerned, 24.4 per cent was intrastate and 75.6 interstate. Those are our principal interstate railroads.

So far as the railroads are concerned which operate entirely within the State, the percentage of State business was, of course, much greater.

THE VICE CHAIRMAN. My recollection, Mr. Chairman, is that the other State which showed a smaller portion of interstate business was Texas.

MR. THOM. I wish one of the members of the committee would bring out from the witness information as to whether that relates merely to business originated or terminated in California, or all business, in addition, which passes through California.

Mr. THELEN. I will have to have that particular matter looked into.

Mr. THOM. For instance, a shipment could originate in Oregon and go down by the Southern Pacific around through California to some other point.

The VICE CHAIRMAN. A great deal may be imported or exported to foreign countries.

Mr. THOM. I had also information about Indiana, and that is 7 per cent intrastate.

The CHAIRMAN. Of course, the States vary. I imagine in a large State like California or Texas the business would be a great deal more State—a greater proportion of the business would be State business.

Senator CUMMINS. It depends on the location of the State with reference to other States. Take my own State, for instance, over which nearly all the transcontinental traffic passes: the proportion is much greater. I think more than 90 per cent of the business done in my State is interstate in character.

Mr. THOM. It would not do to confine the question to that which originates and terminates in the State. You have to regard all other traffic as well.

The CHAIRMAN. Now, Mr. Thelen, do you find much difficulty in the State regarding this question of difference between interstate and State rates?

Mr. THELEN. We, ourselves, have had very little difficulty in that matter, Senator. There is one situation which has recently come to our attention, and on which we have passed which does involve that situation, but, in general, we have had very little difficulty or trouble. That is due, in part, to our geographic location and the actual movements of commerce in and out of the State.

The CHAIRMAN. Are your State rates, as a rule, in harmony with the interstate rates?

Mr. THELEN. In general, I think they are. There are exceptions to that general statement, but in general, the State rate over an interstate carrier is in harmony with the interstate rate of the carrier, but we have very diverse situations in the State. We have passenger rates running from 2½ cents to as high as 11 cents a mile. The higher rates are largely on the small roads—scattered roads, here and there, mostly in the mountain counties.

The CHAIRMAN. Now, as it is, you have not found much difficulty in this State?

Mr. THELEN. We have had very little difficulty.

The CHAIRMAN. Now, Mr. Thelen, with reference to the Southern Pacific Railroad, which operates, I believe, in 8 or 10 States, or more, do you think it is a wise system which, in the case of that railroad, forces State incorporation in every State through which it passes, and then a consolidation practically of all those State railroad systems through a holding company in Kentucky, which owns the stock of the various State corporations?

Mr. THELEN. I do not understand that the Southern Pacific Co. is incorporated in each State in which it operates. I understand that the Southern Pacific Co. is incorporated solely in the State of Kentucky.

The CHAIRMAN. And that that company owns the tracks in those various States—

Mr. THELEN. No; as far as California is concerned, I believe that the actual title to the physical property is largely in the Southern Pacific Railroad Co., and in the Central Pacific—either railroad or railway company. It may be “railroad” company. The Southern Pacific Co. itself has title to only a few miles of railroad in this State—that is, title to the actual physical property—but the Southern Pacific Co., as I understand it, does control the stock and operates the properties of the Southern Pacific Railroad Co., and the Central Pacific Co., and those corporations—that is, the Southern Pacific Railroad Co. and the Central Pacific Co.—I understand, are California corporations.

The CHAIRMAN. Passing that railroad for the present and taking the Union Pacific, that was formerly a Federal corporation?

Mr. THELEN. Yes, sir.

The CHAIRMAN. It went through the hands of a receiver, I believe?

Mr. THELEN. In other words, its Federal charter did not save it from going through the hands of a receiver.

The CHAIRMAN. Then it was reorganized under a State charter and embraced railroad systems not contemplated by the original national charter, did it not?

Mr. THELEN. I think that is true.

The CHAIRMAN. Now that railroad company is incorporated under the laws of Utah.

Mr. THELEN. So I understand.

The CHAIRMAN. And the charter, of course, granted by that State. Now, do you think it is a fair system which gives the States of Oregon and Idaho and Wyoming and Nebraska, through which the railway system passes, no voice at all in the determination of the charter of that great system, which operates in all of those States?

Mr. THELEN. I have not heard any complaint, Senator, from any of those States in reference to that question.

The CHAIRMAN. Do you regard it as a fair system?

Mr. THELEN. I do not see why it is not fair, so far as the question of fairness goes, so long as the railroad performs its duty to the public in each of those States.

The CHAIRMAN. You, then, do not recognize the right of any State, except the State of Utah, to give the charter to enable all these State railroads to operate under one system?

Mr. THELEN. I understand the law to be, Senator, that if an interstate railroad is incorporated under the laws of Utah, we will say, and gets its charter from that State, that none of the other States through which that railroad may desire to run can prevent that railroad company, an interstate railroad, from running within those States. I do not understand that the other States have the right to compel that railroad to take out a new charter. Personally, I have never quite understood the Texas situation. I think that is the only situation of that kind that is contrary to the general principle I have stated. In Texas they have provided—and I think successfully—that no railroad can operate in Texas unless it takes out a Texas charter. I have doubted very much if that would stand if brought before the Supreme Court.

The CHAIRMAN. Do you not think it is a bad system under which a combination of railroads can be formed in a number of States, and that that combination can go to an individual State, without



consulting the others, and there have a charter framed, or can go to a State of less restrictions regarding stock and bond issues and other things, and form a holding company or an owning company which shall operate in other States, which have no share in the legislation of the State that grants the charter? Do you not think it would be a much better system to have the National Government—in which all the States are represented by Senators, the ambassadors of the State, and Representatives who are elected by the people—to frame the charter under which these great systems are to operate in many States? Do you not think the combined wisdom of the Nation would be more likely to frame a charter that would have proper control and restrictions than the individual States which have framed charters for operation in other States?

MR. THELEN. I will say, Senator, that I recognize one element of the problem which you put which should be changed, and that is the issue of securities. I have already stated that I believe that the Federal Government should have control of the issues of stocks and bonds and other securities of all interstate railroads of the United States. As far as the other matters are concerned, I think, they are largely theoretical, to put it frankly. Of course, it does not look well on paper to have these various corporations incorporated in all these States; but, as a practical matter, I do not believe that the situation has resulted in any serious railroad problem to-day. By merely removing that situation, in my judgment, you will not cure any of the fundamental difficulties with which the railroads are confronted; in other words, I do not believe that merely changing the machinery of incorporation from State to Federal incorporation is going to accomplish any constructive result. If you are going to enter upon a constructive program, I believe it would be wise to consider the real causes of the difficulties in which many of our railroads find themselves, and then remedy those causes. In my judgment, the mere securing of charters from one of the States is not one of those difficulties.

THE CHAIRMAN. If we were just entering upon a period of railroad construction to-day, no railroads having been previously built, and we were contemplating that within the next 20 years we would have over 200,000 miles of railway operated, we will say, under 10 or 12 great railway systems, and operating, each of them, in 10 or 12 States—suppose we are confronted with that situation—would you think that we should provide that those great systems should be incorporated by the National Government in the legislation relating to which all the people share, or would you think it best that they should be all organized under the State of New Jersey, for instance, in the legislation of which the people at large do not participate?

THE VICE CHAIRMAN. Mr. Chairman, you are a literary man. If you will refer to Herodotus, the oldest historian, you will find that the subject you are inquiring about now was fully discussed in the conference between the eight assassins of Magi, and Darius urged that a centralized government was the best one for Persia and succeeded in his argument. That was 3,000 years ago.

THE CHAIRMAN. What I am objecting to is the subjection of the entire Nation to the action of a single State like New Jersey.

The VICE CHAIRMAN. That was the objection to the plan proposed by Darius—that one man should be king and rule over the balance, but every man agreed to that if he could be king.

Mr. THELEN. I will suggest, Senator, that your question is academic. We are not confronted with that situation. Things have happened differently. We are confronted with an entirely different situation, and our problem is what to do to cure such unfortunate conditions as exist under the present situation. I do not know that it would be of very much assistance to make up our minds as to what we would do under an entirely different situation.

The CHAIRMAN. I am trying to get at what he considers an ideal system.

Mr. THELEN. I have already suggested, and I think it is my answer to your question, that if the Government should own all the railroads, and if it should parcel out the United States between four or five great operating systems, there might be much reason in a situation of that kind to have Federal corporations. I am entirely open-minded on that suggestion, but of course that is not the plan here presented by the railroads.

The CHAIRMAN. That is all.

Mr. THELEN. You have not asked my opinion with reference to one branch of State regulation, and, if I may, I should like to suggest something concerning rates.

The CHAIRMAN. Very well; we should be glad to hear you.

Mr. THELEN. With reference to rates, it is my opinion that the existing system is reasonably satisfactory, provided one change is made. I regard the so-called Shreveport situations as unfortunate. I think a great deal of mischief has been caused by them, and it is my judgment that some step should be taken to remedy those Shreveport situations. In that connection I would like to draw the attention of this committee to the fact that the National Association of Railway Commissioners, at its last convention in Washington, unanimously instructed its committee on State and Federal legislation to confer with the Interstate Commerce Commission to see whether those situations can not in some way be alleviated. The committee on State and Federal legislation did confer with the Interstate Commerce Commission. We found their views were practically the same as ours in the matter, and we all agreed that an attempt should be made to reconcile on a single record those situations; that is, have a single record taken at a joint hearing of the Interstate Commerce Commission and the various State commissions affected, in which record all the facts are brought out, and then to see whether a harmonious conclusion can not be reached as between the Interstate Commerce Commission in its jurisdiction on the one hand and the State commissions in their jurisdiction on the other hand.

Mr. ESCH. Was not that recommended by Commissioner Meyer in his address before your convention a year ago?

Mr. THELEN. He recommended that last year, and also the Interstate Commerce Commission in its last annual report made a similar recommendation. In the last convention the State commissioners gave serious thought to that matter and reached the same conclusion. I think it is the proper solution, and I have no doubt we will reach some agreement with the Interstate Commerce Commission. I am

very hopeful that the Interstate Commerce Commission and the State commissions jointly will be able, before long, to present to this committee some constructive plan along those lines. We appreciate that there are cases in which it will not work, but in general we believe it will work, and we believe that by cooperation of that character most of the rate situations that we have had involving alleged discriminations will be satisfactorily adjusted.

Mr. THOM. Did you bring out whether it is a part of that plan that the ultimate jurisdiction to determine those controversies shall rest on the Interstate Commerce Commission, or whether it shall be a joint one in the State commissions and the Federal commission, or whether it shall be in the Federal commission alone?

Mr. THELEN. My answer to that question would be that in all cases covered by the so-called Shreveport decision the jurisdiction is in the Federal Government, but even in those cases I think much could be accomplished by harmonious cooperation.

Mr. THOM. I asked where this plan contemplated to repose that jurisdiction.

Mr. THELEN. To leave the jurisdiction in all those cases where it now rests.

The VICE CHAIRMAN. I do not think anything done by the local authorities can be anything more than advisory where the Federal authority intervenes.

Senator CUMMINS. Does not the Interstate Commerce Commission recognize that with respect to State rates which may come in conflict with orders issued by the Interstate Commerce Commission, as being discriminatory, that it has no power to fix a State rate?

Mr. THELEN. I understand that.

Senator CUMMINS. It can simply prohibit the State from further enforcing it.

Mr. THELEN. I understand that is so.

Senator CUMMINS. And has not the Interstate Commerce Commission substantially suggested that it should be given the same power in fixing a State rate thus condemned that it now has to fix an interstate rate?

Mr. THELEN. I am not sure of that. That feature is not involved in this plan. That would be a change of jurisdiction. I understand this plan to be simply a change in machinery so that provision will be made for cooperation between the respective authorities, but that it does not involve a change in the existing jurisdiction.

Senator CUMMINS. I understand that the commission looked upon that situation precisely as it had to view the entire situation in 1906, prior to the time it had any authority to fix rates for the future, and that it could only condemn, but not create, and that it believed that in such instances it ought to have the power to fix the rate; that it became indissolubly connected with the interstate business, and that it came within the Federal control, and that it should not simply be confined to referring it to the State authority.

Mr. THELEN. They may have made such recommendation. I have not seen that particular recommendation.

Senator CUMMINS. I do not remember that any such specific recommendation was ever made. I am speaking simply of the general attitude on the part of the Interstate Commerce Commission which is gathered in various ways.



The VICE CHAIRMAN. If any act of a local authority affects injuriously interstate commerce, there is undoubtedly the power in Congress, whether it has conferred it on the Interstate Commerce Commission or not, to confer that.

Senator CUMMINS. Undoubtedly there is that power, but there is no authority anywhere save in the State commissions to substitute another rate which might be regarded as fair and reasonable in its relation to the interstate rate. The Interstate Commerce Commission can only content itself by condemning or denouncing the rate.

Mr. THELEN. If I may, Mr. Chairman, I should like to refer to one point, which I do not believe is clear on the record in connection with the testimony of Mr. Kruttschnitt. Mr. Kruttschnitt referred to railroad construction in California, concerning which matter I testified in my opening statement. He named two railroads which he said had not been constructed. The inference might be drawn from that that I had referred to them as railroads under construction. The fact is, as will appear very clearly from my testimony, that I referred to them as railroads which were projected but not constructed. Mr. Kruttschnitt also referred to four or five other railroads in California which he said had gone into the hands of receivers or were about to go into the hands of receivers. The inference might possibly be drawn from that statement that State regulation has been a failure in that respect. I want to draw the attention of the committee to the fact that these railroads had been constructed and their securities issued before the California commission secured control over the issuance of securities of those corporations. No railroad which has issued stocks or securities since the California commission acquired jurisdiction in 1912 has gone into the hands of a receiver.

As to the facts of railroad construction in California, I think, in just a few words, I can bring the record to date on that point. From January 1, 1911, to June 30, 1917, 927 miles of main-track steam-railroad main line were constructed in this State. During the last year—that is, the year 1916—158 miles of new steam-railroad mileage, involving an expenditure of \$3,695,000, were constructed in this State. At the present time a number of our railroad companies are actually building railroads in this State. The Los Angeles & Salt Lake Railroad Co. is building a short branch line. The Minkler Southern Railway Co. line is being constructed. The same is true as to the Indian Valley Railroad Co. The San Diego & Arizona, the Southern Pacific, and the Kings Lake Shore Railroad Co. are engaged in construction work. At the present time 93 miles of railroad are being constructed in California at an estimated cost of \$6,393,000.

Mr. ESCH. That does not include double-trackage, does it?

Mr. THELEN. That is all single track.

Mr. THOM. Does that include double-tracking?

Mr. THELEN. In no instance is double-tracking included. That is new main line, except 3 or 4 miles of branch line being constructed by the Minkler Southern and a branch line of the Southern Pacific in Imperial County.

In the year ending June 30, 1916, there was expended by the steam railroads in this State for additions, betterments, and extensions the sum of \$6,600,000, which does not include any equipment of interstate railroads. I refer to these matters as showing that under what

I regard as adequate State regulation railroad construction has continued in this State, which would seem to show that in searching for the causes of diminished railroad construction in this country we shall have to look to other causes than public regulation.

Mr. SIMS. Just one word. If I understand you, the intrastate business as to California of the Southern Pacific was more than 50 per cent of the total.

Mr. THELEN. 56.9 in 1916.

Mr. SIMS. Now, on that question: Suppose the Southern Pacific Railroad should make an application to the Interstate Commerce Commission to advance its rates 20 per cent, and it should be granted; under the laws of California, under your powers as commissioner, could you prevent that increase as to this portion of the business that is intrastate business?

Mr. THELEN. Yes, sir; we could prevent that; but what would be done undoubtedly is that the railroad would apply to us, as in the 15 per cent case, for a similar advance in the rate, and if they are entitled to it they will get it.

Mr. SIMS. Suppose that your judgment is different and they do not get it; would your judgment be final?

Mr. THELEN. So far as the State rates are concerned, I understand it would be final unless the doctrine of the Shreveport case came in.

Mr. SIMS. In other words, then, the State commission, if given by the State the power to do it, may nullify the permission given by the Interstate Commerce Commission, in so far as it affects the intrastate business?

Mr. THELEN. I do not believe it would be proper to refer to that as a nullification for the reason that the Interstate Commerce Commission can not fix State rates. So its order would, of course, operate only on interstate rates.

Mr. SIMS. The order of the Interstate Commerce Commission is merely a permit; they only give the railroad company permission to charge the rate filed by the railroad company, or so much of it as it considers proper?

Mr. ESCH. It is more than a permit, because if the rate is unreasonable it is unlawful.

Mr. SIMS. The railroad does not have to do it.

Mr. THELEN. I suppose when the railroads ask for an increase the usual order would be an order permitting them to make the increase if they so desire.

Mr. SIMS. And the State may nullify that permit or, in other words, fail to approve it so far as it affects intrastate business, although being done by an interstate railway company?

Mr. THELEN. Of course, that particular result is something that is well known from the fact that the States have the right to fix State rates. It may be, for instance, that in the State business the railroads are not merely holding their own, but making unreasonably high returns, so that it by no means follows that if an increase is authorized on interstate business that therefore a corresponding increase must follow on all intrastate business.

Mr. SIMS. But so far as the Southern Pacific is concerned the jurisdiction of California, so far as its business is concerned, is greater in volume—that is, the percentage of business under the control of the California commission and affected thereby—it is larger than the

Interstate Commerce Commission would have control over; that is, you have the power to affect more than 50 per cent of the rates of that railroad as compared to the Interstate Commerce Commission, with reference to the State of California.

MR. THELEN. Yes, sir; I would agree with you on that, Judge; but that is not true with respect to the other States of the Union. In a great many of the other States in the Union—in fact, the great majority of them—the interstate Commerce Commission has the power to affect a much larger portion of the rate structure than is true in this State.

THE CHAIRMAN. Mr. Thelen, I just want to pursue the inquiry a little further with reference to national incorporation. How many operating companies are there in the United States now? Do you know?

MR. THELEN. I do not know, Senator. I am sorry I do not have that information.

THE CHAIRMAN. Can you state approximately?

MR. THELEN. I would not undertake to do that. I would be glad to get the information and furnish it.

THE CHAIRMAN. It will not be necessary. I wish to ask you how you regard this system of bringing railroads operating in different States into one union by the system of holding companies; that is to say, a holding company organized in one State, with power to hold the shares of stock of the railroad companies, organized in a number of other States, and operated in a number of States.

MR. THELEN. I know of cases where very gross abuses have resulted from such a situation. I refer to the official decision of the Interstate Commerce Commission in the Rock Island case. They draw attention there to the fact that, by incorporating a holding company in New Jersey an enormous additional amount of stocks were issued without any increase in the value of the property. The only source from which that stock could secure dividends was from the railroad, which was actually operated, and, of course, it was impossible for that railroad to secure such dividends as were expected in connection with the stock issued by the holding company of New Jersey. The Interstate Commerce Commission drew attention to that matter in the record.

THE CHAIRMAN. Do you regard that as an evil that should be remedied by legislation?

MR. THELEN. I do.

THE CHAIRMAN. Should it be National or State legislation?

MR. THELEN. For that reason, among others, I advocate Federal control over stock issues. If the Federal Government had control over that stock, and if the authority extended to holding companies, that evil would have been cured.

THE CHAIRMAN. You think that would be an effectual remedy?

MR. THELEN. Yes, sir.

THE CHAIRMAN. And if that were done, all evils connected with holding companies would be done away with?

MR. THELEN. I would not say that all evils would be done away with. I would say that, in my judgment, the far greater proportion of the evils would be done away with if the Federal statutes were so framed as to include holding companies. In our State holding companies are not subject to the jurisdiction of the commission.



The CHAIRMAN. Don't you recognize the fact that the existing system of incorporating railroads throughout the country which has resulted in a company organized in one State, having a charter from that State, owning either the physical property of the railroads in other States or owning shares of other railroad companies organized in other States, is a complicated system that ought to be remedied by some sort of legislation?

Mr. THELEN. I realize there are evils connected with it. These evils are connected, I think, with the issuance of securities, mortgages, etc., and for that reason I frankly advocate control by the Federal Government of those particular matters.

The CHAIRMAN. You would not advocate doing away with the holding companies entirely?

Mr. THELEN. I do not believe that alone would accomplish very much. I do not believe it would go to the fundamentals of the proposition.

The CHAIRMAN. Do you not think the present confusion regarding railway incorporation, this anomalous condition of men desirous of financing a number of railroads, going to a State where they do not own a mile of railroad, and securing a charter for financing those railroads—do you not think that is a bad situation?

Mr. THELEN. Merely securing the charter does not make much difference. The trouble begins when that holding company begins to issue securities.

Mr. THOM. Would you object to asking the question: Suppose the corporation would not issue securities necessary for the increase of facilities, and was prevented from issuing them by the power of the State which controls the holding company—is not that an evil?

Mr. THELEN. If I may consider the question as asked, I would reply to that that I agree with Judge Thom's statement before the House Committee on Interstate and Foreign Commerce in 1914, to this effect, that the Federal Government has the right, directly, by providing for the control of security issues of this sort, to accomplish this purpose without the intervention of a Federal corporation. I was very much interested in his statement at that time and in his statement before this committee to the same effect.

The VICE CHAIRMAN. The House committee reported, and the House passed the bill based on Mr. Thom's views at that time, agreeing with his views that all the evils can be solved by simply controlling the issues of stocks and bonds.

Mr. THOM. My suggestion did not go to the question of Federal power, but to the lack of State control over any holding company.

Mr. THELEN. It is my judgment that the Federal Government has a right to make a railroad that is engaged in interstate business do whatever is proper, notwithstanding the limitation of the State charter.

The VICE CHAIRMAN. There are people in Virginia who go across the line into the District of Columbia and Maryland and sell eggs and apples, and they are as much engaged in interstate business as any railroad in the country—not probably to the same extent, but nevertheless they are engaged in it.

Mr. TROY. May I suggest you ask the witness some questions along the line of what I understand to be the chief purpose of this inquiry, namely, public ownership?

The CHAIRMAN. I prefer to let the witnesses open up that question if they wish to.

The VICE CHAIRMAN. We have examined one or two witnesses on that question who have appeared, and other witnesses have expressed a willingness to appear. I presume that each member of the committee examines the witnesses along the lines of testimony given by the witness. I do not understand that this witness would disapprove Government ownership.

Mr. THELEN. I think I would better let the record show that my testimony runs this way—that I have not devoted myself to the question of Government ownership, except in response to questions from various members of the committee.

The VICE CHAIRMAN. That is what I had in mind, and that therefore we did not examine you on that.

Mr. THELEN. I would not want to preclude myself from saying that under certain circumstances I would say that Government ownership would be desirable.

The VICE CHAIRMAN. I have listened to your testimony carefully—both your testimony in Washington and here—and I so much admire your testimony and the study it shows you have given the matter that I do not want to weaken it by cross-examination, and I am sure that I could not strengthen it or add to the force and perspicacity with which you have expressed it. I wish to thank you for your contributions on the subject and commend to all readers a careful reading of your testimony.

Mr. THELEN. There is no one who can make a nicer compliment than a gentleman from Georgia.

The VICE CHAIRMAN. And no one deserves it more than a gentleman from California.

Senator CUMMINS. I wish to ask some questions.

The VICE CHAIRMAN. Senator Cummins, according to the action taken yesterday the hour of adjournment has arrived.

Senator CUMMINS. I would be the last man to invade any arrangements that have been made, but I desire to say in my examination yesterday I confined myself to the scope of the direct statement made by Mr. Thelen on a former occasion. Since that time—and very properly, too, and I am not criticizing that—very many other subjects have been developed and there is one of them upon which I especially want to ask Mr. Thelen some questions, but of course at this time I will defer.

Mr. ESCH. I should like to interrogate him for possibly 15 or 20 minutes myself.

The VICE CHAIRMAN. He will have to come back, anyway, for Mr. Esch to examine him.

The CHAIRMAN. Very well, we will stand adjourned until 10 o'clock to-morrow morning.

(Whereupon, at 12 o'clock noon, adjournment was taken until to-morrow, Saturday, November 3, 1917, at 10 o'clock a. m.)

SATURDAY, NOVEMBER 3, 1917.

CONGRESS OF THE UNITED STATES,  
JOINT COMMITTEE ON INTERSTATE COMMERCE,  
*San Francisco, Cal.*

The joint committee met in the Palace Hotel at 10 o'clock a. m., in pursuance to adjournment, Hon. William C. Adamson, vice chairman, presiding.

The VICE CHAIRMAN. The committee will come to order. I believe Mr. Esch was to examine Mr. Thelen, or was Senator Cummins through.

Senator CUMMINS. I think that Mr. Esch has the right to precede me, and I am very glad to have him do it, because I have examined Mr. Thelen once.

The VICE CHAIRMAN. Very well; proceed, Mr. Esch.

## STATEMENT OF MR. MAX THELEN—Resumed.

Mr. ESCH. I did not have the advantage of your testimony in chief of last Wednesday, so my questions may have no relevancy to the testimony you gave; but, knowing your standing in connection with railroad matters, I feel sure the committee will be glad to get your views on the line of inquiry I wish to open up now. It is with reference to railroad receiverships.

You intimated yesterday that notwithstanding the fact the Union Pacific was financed by the Government, it nevertheless went into the hands of a receiver, so whether this Government adopts Government ownership or maintains private ownership, receiverships are possible.

Mr. THELEN. That is correct. I may add that I believe that at least three out of the four Federal railroad corporations have gone into the hands of receivers, the last being the Texas & Pacific Railway Co., which is at present being reorganized, or the reorganization of which has just been completed. This situation demonstrates the fact that a Federal charter does not save a railroad from the hands of receivers.

Mr. ESCH. When these hearings were commenced about a year ago, it was stated to us by Mr. Thom that there were something like 40,000 miles of railroad in the hands of receivers. Am I right about that, Mr. Thom?

Mr. THOM. About 42,000. I think.

Mr. ESCH. About 42,000 miles in the hands of receivers. There have been times when the mileage was even larger than that. That being the fact, in your opinion, would Federal legislation with reference to receiverships be a desirable thing, in determining the power of the receiver, the duration of the receivership, priority of liens, etc., which would arise under his management and control?

Mr. THELEN. My answer which I now give you, Mr. Esch, represents, I believe, the views of my associates on the California commission. I am not certain that it represents the views of the other members of the national association, because we have not taken it up with them, but the California commission has taken what I think is regarded as advanced ground on that particular matter. In the receivership of a railroad which was recently pending before us, and



out of which a constructive reorganization took place, we publicly stated that it is our judgment that in the case of receiverships of interstate railroads, those receiverships should be handled by the Interstate Commerce Commission and its experts instead of being left to proceedings in the courts, with all the delays and the tremendous expense which exist under the present system. We suggested that where the receivership affects a utility which is not an interstate carrier, it would be well if the matter were handled by the State commission with its trained corps of experts. The evils we see in the present receivership proceedings are in part the long delays, before the corporation ever gets out of the receivership, and the tremendous expense which is incurred for counsel fees, bankers' fees, and other fees in connection with the matter. Furthermore, the public interest ought to be paramount in those receiverships as well as while the railroad is in actual operation, and for that reason it occurs to us that the party who handles the receivership ought to be a representative of the public, and preferably a representative who has a thorough knowledge of all railroad matters and has experts who are qualified to assist in the various branches of working out the receivership.

Mr. ESCH. Well, you say men of experience in railroad matters should be appointed receivers. Would you forbid a stockholder or an official of a railroad company involved from being appointed as a receiver?

Mr. THELEN. My idea is this, and in this I probably go beyond the views of most men—I believe that in case of a receivership of a railroad engaged in interstate commerce, the Interstate Commerce Commission itself ought to act as the receiver.

Mr. ESCH. Do you not know there is no Federal statute practically on the whole subject?

Mr. THELEN. I believe that is true.

Mr. ESCH. And some of the States have none. That permits a very wide latitude on the part of the courts, with no uniformity of action. Therefore I asked the question. Do you think it is desirable or do you think it necessary for the Federal Government to pass some laws with reference to receiverships?

Mr. THELEN. I think it would be very desirable if a constructive plan could be worked out.

Mr. ESCH. Would it be your idea that the parties in interest ought to have some voice in the selection of a receiver?

Mr. THELEN. I suppose that if I take the position that the Interstate Commerce Commission itself ought to act in the place of a receiver, that all I could say to you would be that the party in interest, through the Interstate Commerce Commission, which is supposed to represent all the parties, would have an interest. If I answer you that I think the parties ought to have a direct voice in it, then it might happen that the receiver would not be the Interstate Commerce Commission.

Mr. ESCH. As the practice has been heretofore, an official of the road, and oftentimes its president, has been made receiver. These receiverships are generally emergency matters, are they not, where the appointment is made speedily? Would it be your idea that such emergency appointments should only be temporary until such time

as the parties in interest could be gotten together and express a choice?

Mr. THELEN. Even if the Interstate Commerce Commission were not put in that position, I think it very desirable that the parties in interest be given an opportunity to be represented. A study of railroad receivership shows that in quite a number of instances where the officials of the railroads themselves acted as receivers the reorganization was not a reorganization that could last; in other words, the financial structure which resulted from the receivership has not been as sound as it would have been if parties not directly interested had been appointed as receivers.

Mr. ESCH. In other words, you would not favor what is known generally as friendly receiverships?

Mr. THELEN. I believe in friendliness and cooperation wherever you can get it, but in this particular case I do not believe I would favor what you call a friendly receivership—and by that I mean, Mr. Esch, simply a man who himself has been an official of the railroad which goes in receivership, who has had a prominent part in its affairs, and who then steps out of his shoes as an official of a railroad into the position of receiver of the railroad.

Mr. ESCH. And the very official through whose miscalculations the railroad was brought into such financial straits?

Mr. THELEN. To some extent, in many cases.

Mr. ESCH. So that the court would give official sanction to an official, where that official himself may have been responsible for the attitude of the railroad?

Mr. THELEN. That might happen.

Mr. ESCH. Might happen?

Mr. THELEN. Yes, sir; and at times has happened.

Mr. ESCH. You think that ought to be obviated by positive legislation?

Mr. THELEN. If a constructive plan can be agreed upon.

Mr. ESCH. We have the whole field to operate in. Would you favor a proposition of putting a time limit upon receiverships for common carriers?

Mr. THELEN. I would favor some plan by which receiverships could be worked out much more rapidly than is now the case, and that is one reason why I suggested a public authority as receiver. The public authority would have no other interest than to promptly dispose of the matter. There have been cases where receiverships have lasted three or four years. I do not want to pass any harsh judgment in those cases, but I do not understand why it would take that long to dispose of a receivership.

Mr. ESCH. There are instances where they ran from 11 to 12 years.

Mr. THELEN. I tried to be conservative in my statement.

Mr. ESCH. You were. Do you think that the matter could be reached by the establishment of a receivership court, or tribunal, or anything of that kind, or would you favor putting the matter largely in the hands of the Interstate Commerce Commission?

Mr. THELEN. Well, from such thought as I have been able to give to it, which, frankly, has not been exhaustive by any means, it has appeared to me desirable to have the Interstate Commerce Commission do that, because you have a tribunal there which already has thorough familiarity with railroad matters, which has a corps

of experts who are familiar with operation and construction, and, I hope, in time, with the financing of railroads. It might be that the same purpose could be accomplished through some other instrumentality, but I have not thought the matter out to that extent. I would say, Mr. Esch, that the California commission, realizing the importance of this question of railroad receiverships and the causes that have led up to it, has asked its stock-and-bond department to prepare for submission to this committee a rather comprehensive statement from the historical standpoint of all of the important railroads which have been in the hands of a receiver in the last few years, showing in complete detail the financial situation and the historical situation, and the causes that led up to the receivership. Within a day or so we hope to be able to present this report to this committee for such use as the committee may desire to make of it.

Mr. Esch. How elaborate would it be—how much space would it occupy in print?

Mr. THELEN. I do not like to scare you, but it is 500 pages long and possibly the committee would not want to print it in full. There is an introductory part which the committee will probably desire to print, but the disposition of the report is in the hands of the committee.

Mr. Esch. I have no further questions.

Mr. SIMS. If I catch your idea, Mr. Thelen, you would not have the Interstate Commerce Commission decide whether or not the railroads should go into the hands of a receivership. The court would decide that, and then, by law, the Interstate Commerce Commission would become the receiver after the court has determined that one was necessary. Is that your idea, or is it your idea that the Interstate Commerce Commission should decide itself whether a receivership is necessary or not?

Mr. THELEN. I am not certain, Judge, as to whether the Interstate Commerce Commission could go so far as itself to decide whether a receiver is necessary. I should certainly go so far as to say that if a receivership is established it might be desirable to have the Interstate Commerce Commission act as the receiver.

Mr. SIMS. That the court should determine, in the first instance, on the application, as to whether or not the receiver should be appointed, and that after that the statute would step in and make the Interstate Commerce Commission the receiver—is that your idea?

Mr. THELEN. That would be my idea at present. You ask a question which involves a matter of law which I have not sufficiently examined into, namely, as to whether or not the Interstate Commerce Commission should itself declare the receivership. Before committing myself on that point, I should like to look into the law a little more carefully.

Mr. SIMS. The Interstate Commerce Commission does exercise a quasi judicial authority in some cases. I do not know whether your examination of this question will enable you to make answer to what I want to ask you on that, but has it not sometimes appeared in the appointment of a receiver that the court appointed some men to whom it desired to be friendly, rather than having taken into consideration the interests involved?

Mr. THELEN. I have very great respect for the courts and I would not want to make any statement derogatory to them. All I can say—



and that is a matter of common knowledge—is that it has been frequently urged that that is the case. I would not want to say that is actually the case, because I have no personal knowledge of that, but the charge has been made frequently.

Mr. SIMS. It has been made, and sometimes, I suppose, it has come to your knowledge that men have been appointed receivers that have had no experience whatever in conducting railroads, financially or otherwise—at least it has been charged that it was friendliness on the part of the court more than anything else that dictated such an appointment.

Mr. THELEN. I have been rather under the impression, Judge, that the pendulum has swung the other way, and that you would be more likely to find a man appointed who had too much knowledge of that particular railroad.

Mr. SIMS. But not of general railroad operation or knowledge. I did not mean to make that in the nature of a charge, but it seems to me that it might be one argument in favor of the appointment or constituting the Interstate Commerce Commission a receiver in all cases.

Mr. THELEN. In connection with Mr. Esch's examination, if it is convenient to the committee at this moment, I should like to answer a question put to me yesterday in regard to railroad accidents in this State.

Mr. ESCH. I think we should like to have that.

Mr. THELEN. I have had the matter investigated, Mr. Esch, and I find that the powers of the Interstate Commerce Commission at the present time are rather limited. The authority which the Interstate Commerce Commission has under the act of May 6, 1910, is, at present, limited to investigations of collisions, derailments, or other accidents resulting in serious injury to persons or to property, and that the Interstate Commerce Commission has power after the investigation is made, simply to make its recommendation, but no power to compel compliance with such suggestions as it may make.

In the year ending June 30, 1914, two railroad accidents in California were investigated by the Federal inspectors. In the year ending June 30, 1915, there were five such California accidents investigated by the inspectors of the Interstate Commerce Commission, and in the year ending June 30, 1916, there were four. Now, to show the relative work done along those lines by the Federal Government and State governments, I would say that in the year ending June 30, 1915, which I understand is a fair or typical year, while the Interstate Commerce Commission's inspectors investigated 5 accidents in California, the California commission investigated 25 train accidents; that is, derailments and collisions, and, in addition, 95 highway crossing accidents, making a total of 120 accidents, involving trains, investigated by the California commission, as opposed to 5 investigated by the Federal authorities. With reference to those cases in which the Federal authorities do investigate and request cooperation, to which I believe you drew my attention yesterday, our service inspector tells me there is a most absolute cooperation in those cases. Generally, the California inspectors are on the ground first, as is, of course, natural, as they are right here. They make their investigation and turn over everything to the Federal inspectors and assist them in every possible way.

Mr. ESCH. Of course you realize, in an investigation involving structural material, as in the case of a derailment due to a defective flange or wheel accident or a defective rail, the State commissions have not got the conveniences to make structural or chemical tests. The Federal Government turns its evidence over to the Bureau of Standards, which has the greatest experts in the country, and they give the benefit of their investigations to Congress, to enable Congress to obviate other accidents along that line. Will you pardon me, Judge, just a moment?

Mr. SIMS. I am through.

Mr. ESCH. That brings up another line of inquiry. As you know, Mr. Thelen, however, half of the deaths occurring on railroads in the United States are due to trespassers. It is a lamentable fact, but thousands are killed by merely being on the right of way through trespassing. Has the State of California a law prohibiting trespassing on the right of way?

Mr. THELEN. I do not believe we have such a law. Such a bill was proposed, I think, recently, before two session of the legislature, but there was considerable hesitancy in adopting the bill because some people thought they had a constitutional right to trespass on railroad property, and the bill was not passed.

Mr. ESCH. And it seems to me they exercise that right in every State in the Union.

Mr. THELEN. Yes; I think we are no exception.

Mr. ESCH. I think the American characteristic for short cuts or crosscuts is manifested by this rather impressive list.

The VICE CHAIRMAN. They think that they have performed their duty by tolerating the railroads without relinquishing what they consider one of their inalienable rights to go wherever they please.

Mr. ESCH. But that does raise a serious question, in view of the fact that the States have not done anything, except two, possibly, New York and Illinois; and in view of the fact that they have not done anything along that line, have you any opinion as to whether or not the Federal Government should enact a bill, should enter the field, and if it did enter the field, whether such a law would be enforced or could be enforced?

Mr. THELEN. I will say that a report on grade crossings and trespassing, presented at the last convention of the National Association of Railway Commissions, contained in it quite an exhaustive investigation into that matter, which was prepared by Commissioner Gordon, one of my fellow commissioners on the California commission, and he strongly urged a Federal law to cover that particular point. The convention itself took no definite action on that matter. The question, after all, I think, would be whether the people would be willing to relinquish their supposed inalienable rights to trespass in case such a Federal law were passed.

Mr. ADAMSON. We have a law against theft. Why not have one to cover trespassing?

Mr. ESCH. Was this report of Commissioner Gordon very elaborate?

Mr. THELEN. Yes, sir; possibly covering 10 or 20 printed pages.

Mr. ESCH. I suggest, Mr. Chairman, we incorporate it in our hearings.

The CHAIRMAN. If there is no objection, that order will be made. Will you furnish a copy, Mr. Thelen?

Mr. THELEN. I shall be glad to.

Senator CUMMINS. I am very much interested in the other report mentioned by Mr. Thelen. I think that should be included in our hearings.

The CHAIRMAN. What is the pleasure of the committee regarding that?

Senator CUMMINS. I think there could be nothing more helpful in the work we have to do than a careful review of that subject.

The CHAIRMAN. How about publishing it as an appendix?

The VICE CHAIRMAN. Is it a lengthy statement?

Mr. THELEN. It is 500 typewritten pages.

Mr. ESCH. I move it be made a part of our hearings.

(The motion was carried.)

The CHAIRMAN. The document will be made a part of the hearings.

(The document referred to is printed at the end of this volume of hearings.)

The VICE CHAIRMAN. Let them go in as part of Mr. Thelen's testimony.

Mr. THELEN. My suggestion in that regard would be this: The report was prepared by our stock and bond expert, Mr. Fankhauser. He is immediately responsible for this, although I have looked it over, and so far as I can observe it is accurate.

The VICE CHAIRMAN. Mr. Thelen referred to it, and I think it ought to appear as an appendix to his testimony.

Mr. THELEN. May I answer one other inquiry made to me the other day, and that was in connection with the percentage of California State business as contrasted with California interstate business. I believe Mr. Thom had some question with reference to percentages, which I gave to the committee at that time. This matter was carefully gone over yesterday by Mr. Robert Adams, the auditor of the Southern Pacific, and Mr. Reynolds, the auditor of the California commission, and they agree that the figures as presented are correct, with one qualification, which is this, that the figures which were given include certain business originating at California points, then going to the seaboard, and thence on in certain cases to other States or foreign destinations. The record has not been kept in such way as to make that particular distinction; but in 1916 the amount of that business was relatively small, so I think we may assume that the figures given are approximately correct.

Mr. THOM. Is that class of business, Mr. Chairman, included as intrastate or interstate in these statistics?

Mr. THELEN. That is included as intrastate.

Mr. ESCH. Do you believe the time has arrived when we should repeal the antipooling section of the act of 1887 and exempt the railroads from the operation of the Clayton Act and the Sherman Antitrust Act?

Mr. THELEN. I shall have to express my personal opinion on that, because I have not conferred with the other members of my committee. I have a strong opinion on that point, and that is, that our people should do everything we reasonably can to obviate duplication of service, duplication of facilities, and duplication of ex-



penses that have occurred in the past and in order to prevent such duplication in the future. To the extent that the repeal of the Sherman Antitrust Act and the Clayton Act and the antipooling section is necessary to accomplish this end, I favor such repeal. The war has shown us the great advantage of working our railroads as a unit, eliminating waste in facilities and waste in service, which wastes have grown up under our competitive conditions.

Mr. ESCH. Do you believe that the commission should have the power not only to establish the maximum but also establish the minimum rate?

Mr. THELEN. Yes, sir; I do. We have that power in California, and the power exists in most States. I do not see any logical reason for saying that the power should not exist in the Interstate Commerce Commission.

Mr. ESCH. Do you see any advantage in giving the Interstate Commerce Commission the power to fix minimum rates in connection with the matter of encouragement of inland water transportation?

Mr. THELEN. I suppose your suggestion would be that the Interstate Commerce Commission might increase the level of rail rates; that is, raise the lower rates, so as to encourage people to place vessels on the rivers and encourage that business.

Mr. ESCH. And permit them to live where they now can not exist.

Mr. THELEN. I must say that I have been rather discouraged recently as to river competition. Our rivers have been supposed to be levelers of rates, and have served to some extent to that end, but in California we find boat lines are making applications to raise their rates. This matter is pending before our commission, and I would not like to comment on it to any extent, but the fact is they have made applications to raise their rates and it looks doubtful if the rivers of this State will serve as levelers of rates.

Senator CUMMINS. Mr. Thelen, you have several times intimated during the course of your examination that you were in favor of some readjustment of Federal regulations along constructive lines. The inference was plain, therefore, that you think the present system is not as efficient as it might be.

Mr. THELEN. Without in any way derogating from the splendid achievements of our railroad builders, and looking the facts squarely in the face, I do not see how we can escape the conclusion that that is true.

Senator CUMMINS. It is in that connection that I desire to call your attention to the subject—

Mr. THELEN. May I suggest that the present conditions should not be charged entirely to the railroads. I think the Government itself is in part responsible for the situation.

Senator CUMMINS. I am not attempting to even impute the blame to anybody. I will point out, however, what I regard as a hitherto insoluble problem in railway regulation, and I want your comment or opinion upon it. Historically, it is true, is it not, that the railroads in this country have, in the main, been located and constructed without Government supervision or direction?

Mr. THELEN. In the main, I believe that is true, Senator.

Senator CUMMINS. They have been located and constructed, prompted either by the hopes of the pioneer or the ambition of the promoter?

Mr. THELEN. I think that is true.

Senator CUMMINS. The result is that there are some railroads favorably located and well managed which are strong financially and efficient from the transportation standpoint, and other railroads which are weak, both financially and from the transportation standpoint—that is true, is it not?

Mr. THELEN. Yes; that is true.

Senator CUMMINS. It is true also, is it not, that the very large proportion of interstate traffic or business is competitive in character?

Mr. THELEN. That is also generally true.

Senator CUMMINS. So that it is generally found to be true that the weak railroad must do its business at the same rates, or with the same rates, as are adopted by the strong railroads?

Mr. THELEN. Otherwise they could not get the business.

Senator CUMMINS. No; they could not get the business. It is true, is it not—I premise that by saying that I am not now indicating whether existing rates are too high or too low; I express no opinion on that point—but it is true, is it not, that, with respect to many railroads which are in competition in the sense I have described, the rates which will make one of them prosperous and afford ample return to all the capital invested in it will bankrupt another?

Mr. THELEN. I know of such instances. They undoubtedly exist.

Senator CUMMINS. And yet they are competitive, and do business for the same compensation for the same services?

Mr. THELEN. Yes.

Senator CUMMINS. I do not ask you to affirm what I am about to say, but you can assume it as true. It is my judgment that the railroads in the United States which carry anywhere from 70 to 80 per cent of the interstate business can profitably do business upon rates which will drive 30 per cent, or the railroads which carry 30 per cent of the business, entirely out of the financial world, and yet they must go on because the communities which are served by these railroads must continue to be served; and in that way, and by reason of that situation, we were compelled to allow, in the end, the railroads which carry 70 per cent of the business an excessive rate, or excessive rates, or drive the other 30 per cent out of life. What is your suggestion with respect to the remedy for that condition?

Mr. THELEN. Senator, that question goes to the very heart of the railroad problem.

Senator CUMMINS. That is the constructive part I supposed you had in mind, or one of the phases of it, when you say we should adopt some constructive policy which will involve a rather complete readjustment of our system of Federal regulation and control.

Mr. THELEN. It is for that reason it appeals to me. I am much more interested in the really constructive work that will help better conditions than in mere patchwork.

The VICE CHAIRMAN. You mean constructive work or remedial work?

Mr. THELEN. Work that builds up instead of tearing down. I realize, Senator, that the situation to which you refer exists. I do not know whether your percentages are entirely correct, but I

am ready to assume them, as you ask me to, for the sake of the question. The difficulty you suggest I think clearly exists, and in order that the 20 per cent of the railroads, using your figures, may prosper it will be necessary to give to the other 80 per cent rates higher than those to which those railroads are reasonably entitled. If that were done, it would be an enormous drain upon our shippers year by year, and a drain which, in my judgment, would not be a fair drain. On the other hand, these 20 per cent of the railroads are to some extent necessary. Some may be sheer indefensible duplications; but to some extent, at least, those railroads are necessary, and, in my judgment, the Nation should do something constructive to take care of that particular situation.

In reading this transcript of the testimony, I gathered from some questions which you put to other witnesses that you had in mind, tentatively, a certain plan. That plan, as I understood it, was that the railroads of the country should be combined into four or five great systems; that the weak should go with the strong in each system; and that the strong should go with the weak. I am not quite sure whether your plan contemplated that the Government itself should own all the railroads. It at least contemplated that these four or five systems should operate the railroads. In my judgment, if that could be brought about, that would be one remedy for the existing situation. All the railroads within a certain system, both weak and strong companies being put together, the strong would help bear the burdens of the weak, and to that extent relief could be secured without exacting enormous additional rates, which would be required on 80 per cent of the business in order to take care of the weak systems.

Senator CUMMINS. Without attempting to outline any view I have of my own, it is quite evident, is it not, that the present system is incapable of solving that problem?

Mr. THELEN. I do not believe that the problem can be solved under the existing order of things. The only way that it could possibly be solved is to have the so-called weak systems all go through bankruptcy and come out—after getting through bankruptcy—with no securities at all, or a very small amount of securities on which they possibly might be able to pay returns at the rates charged by their more fortunate rivals. That is a drastic remedy, and I do not mean to say that I advocate it.

Senator CUMMINS. Let us take up the remedies one by one.

The VICE CHAIRMAN. The suggestion of the witness would amount to confiscation of property, legally or otherwise, of others who own it.

Senator CUMMINS. I do not know whether it is confiscation or not.

The VICE CHAIRMAN. They would lose it.

Senator CUMMINS. It is not within the scope of the remedy I have in mind. I suppose that if it were assumed that a railroad property were incapable of earning anything, its value would be very slight.

The VICE CHAIRMAN. Hope springs eternal in the human breast, and any man who holds stock in a railroad property hopes that that property will eventually bring returns.



Senator CUMMINS. That is true. The only way in which the present system can reach that question is to allow the strong railroad rates that will make the weak railroads at least self-sustaining.

Mr. THELEN. Either that must be done or the weak railroads go into bankruptcy.

Senator CUMMINS. If we pursue that plan, which is the present plan, then the people of this country have to pay about four times the amount necessary to really compensate the weak railroads for the inadequacy of their rates.

Mr. THELEN. On the basis of your figures, I think that is true.

Senator CUMMINS. On the basis I have suggested.

Mr. THELEN. Yes, sir.

Senator CUMMINS. And if we continue the present system, it would be vastly better for the Federal Government to annually appropriate from the common Treasury enough to sustain the weak railroads, limiting the strong ones to reasonable rates.

Mr. THELEN. It would be cheaper to handle the problem in that way.

Senator CUMMINS. But that remedy is probably not practicable.

Mr. THELEN. I do not believe it would be. I do not believe that the American people would favor a direct appropriation of money out of the National Treasury for the purpose of helping railroads which either never should have been built, or which, being built, are so-called weak systems.

Senator CUMMINS. Another remedy is Government ownership that will put in the public the financial interest of the entire property, so that it can be operated as one property.

Mr. THELEN. As far as this particular problem goes, I agree with you, Senator, that Government ownership is also a remedy.

Senator CUMMINS. There is also another remedy, practically, and that is to regroup the railroads of the country into 5, 6, 8, or 10 systems—that suggestion being entirely tentative—consolidating with the strong railroads the weak ones, and in that way rates could be so adjusted that the system as a whole would receive sufficient revenue to comply with the law and with the demands of justice, and if that is practicable the people of the country would be compelled to pay only a percentage of that which is now disbursed on account of the weak railroads. What is your opinion with regard to that suggestion? I am not coupling that with Government ownership for a moment. I am thinking of compulsory readjustment or regrouping of the ownership of railroads in private hands.

Mr. THELEN. You refer now to only operation and not to ownership?

Senator CUMMINS. I am speaking of both ownership and operation. For instance, if some competent power—the Interstate Commerce Commission or other tribunal of like experience and wisdom—were to undertake the task of regrouping the railroads so that the difficulty I suggested would be eliminated and the property of each group could be acquired, either by condemnation on the part of the Government or condemnation through a Federal incorporation, and if the former, then conveyed to a new Federal incorporation, or if the latter the title would be already in the new Federal corporation—that would create a series of systems that would at least withdraw

the problem I have suggested from railway regulation. It would not, of course, eliminate all the problems.

Mr. THELEN. I think that system would go a long way toward meeting your particular difficulties, Senator. In fact, it offers a possibility for those who do not believe in Government operation, or who are not ready to go to the limit of Government operation at the present time. I assume under your system the Government could own all the railroads and would be in a position to derive the tremendous advantages which accrue from its better borrowing power over the borrowing power of private concerns, and it could then, owning all the railroads, lease them out for operation in, say, four or five groups by private capital in a manner somewhat analogous to the present situation in New York City, where the city of New York, through the expenditure of public funds, is making the necessary additions and extensions in the way of subways, elevated structures, etc., to the existing street railway systems, but is nevertheless turning that system over for operation to the Interborough Rapid Transit Co. under an agreement which calls for the payment of all the expenses of the latter company and a sharing of the remaining profits. That particular plan avoids some difficulties which have been suggested in connection with Government operation and has the advantage of securing the better borrowing power which the public has, and also the advantages which are supposed to come from economies in private operation.

Senator CUMMINS. I realize the advantages of public ownership, as far as capital is concerned. I am not committing myself to either plan; but whether it is accomplished through Government ownership and private operation or Government ownership and Government operation, or accomplished through a regrouping of the railroads in the hands of private corporations it is evident, is it not, that something of that kind must be done if we are to save the people of this country from the disaster of either paying rates on 70 per cent or more of the business that are excessive or destroying the weak railroads which must have those rates in order to survive? I do not want to commit you to any particular plan, but would you regard that as one of the constructive policies that we must adopt, in view of the new conditions which have arisen?

Mr. THELEN. I think that is a very constructive plan, and very careful thought should be given to it. It is something like what I have had in mind. It is doing something constructive rather than applying plasters.

Senator CUMMINS. And, as I view it, what you have in mind is that you think we should do something that will insure the highest efficiency in transportation service at the lowest reasonable cost to the people of the country?

Mr. THELEN. That is true, and something which will enable the additional money that is necessary for our transportation systems to be supplied.

Senator CUMMINS. That brings me to another point, concerning which I will inquire for just a moment. It is quite evident now, is it not, that there can be no considerable increase in mileage—I mean extensions of railroads—in this country except through established companies?

Mr. THELEN. I think that is generally the case. There are some few exceptions here and there, but in general I believe the new railroad construction is being done by old companies.

Senator CUMMINS. So long as a new company is absolutely dependent upon the great through-traffic lines, there is not very much inducement for capital to enter into the construction of entirely independent lines, is there?

Mr. THELEN. Not very much.

Senator CUMMINS. The country has been so effectually preempted in times past that it is not reasonable to expect very much enlargement in the way I have suggested. Do you believe that extension of railway facilities ought to be left to the motives which have heretofore induced railway building, or ought to be a matter of governmental direction?

Mr. THELEN. I believe that it ought to be a matter of governmental direction. I believe that many of the ills we now suffer in the railroad world, including the shaking of confidence in railroad securities, are due to the fact that railroads, acting on their own initiative, have built railroads where they should not have been built. The inevitable result is that there is bound to be a reaction against railroad securities, even against the securities of strong and capable railroads; in other words, if the public had some direction with reference to new construction, the restraining influence which the public authorities would exert would have avoided most of the disasters that we have had in the way of construction of railroads where they should not have been constructed. That kind of authority is exerted to-day by most of the State railroad commissions in connection with gas, electric, telephone, and water companies. The so-called certificate of public convenience and necessity takes care of that. My suggestion is that something analogous to that should be applied by the Interstate Commerce Commission in the case of interstate railroad construction.

Senator CUMMINS. I have nothing further, Mr. Chairman.

Mr. ESCH. In that connection, you have already stated you favor Federal control of stock and bond issues?

Mr. THELEN. Yes, sir.

Mr. ESCH. Would you add to that the power of issuing certificates of public convenience and necessity?

Mr. THELEN. Yes, sir: I suggest the States should be heard on that; but where you have an interstate carrier, I think the authority in that primarily should be with the Federal Government.

Mr. ESCH. Those two matters are so closely related that if you give the power over stocks and bonds to the commission you should give the power to it to determine whether roads should be built or not.

Mr. THELEN. Yes, sir.

Mr. SIMS. You spoke of the possibility of Government ownership of all railroads in the country, and then the railroads to be operated in groups or systems. Do you mean to imply, by having different groups they should be competitive, one with the other—compete for the same business—or be universally operated by the Government as though there were only one system?

Senator CUMMINS. I assume that this country could be divided into five or six or seven or eight districts and that the railroads within those districts could be operated without the waste of competition.



Mr. SIMS. You did not mean to imply a competitive condition?

Senator CUMMINS. No.

The VICE CHAIRMAN. The idea is that the strong would help the weak and that is according to the Scriptures, which say: "Bear ye one another's burdens."

Mr. THELEN. So far as the future is concerned, with governmental control we could almost entirely prevent further weak railroads, so that our work would be in taking care of past troubles.

The VICE CHAIRMAN. Would it not be constitutional and entirely unsocialistic for the Government to buy up the weak roads and support them without being encumbered with all the rest of them? The strong ones are able to take care of themselves, and those that compete with one another at the large cities or terminals can help themselves. If we are going to help any, let us not help the strong ones, but take hold of the weak ones and help them grow up. They serve weak communities; and I think if we are going to help anybody, we should take hold of them and help them become big and strong, thereby helping these weak communities to become big and strong, so as to be able to hold their own with the other strong communities.

Mr. THELEN. I do not believe that it would be fair to the Government to ask the Government to take merely the weak roads.

The VICE CHAIRMAN. All this discussion has looked to something that would centralize and help the Government control this situation. The Government, to my mind, is something like what the poet wrote:

Little drops of water, little grains of sand,  
Make the mighty ocean and the beautiful land.

This country is made up of many little and big communities, and all the discussion seems to overlook or to be lacking in interest in the struggling community and to give very little attention to local business, and I protest that we should consider them somewhat before we revolutionize the system and put everything into one center, helping the strong and neglecting the weak.

Mr. SIMS. The very fact of acquiring the properties of all railroads by the Government would eliminate the question of the weakness of any, because the Government would not pay any more than it is worth, and when a railroad is taken over by the Government it ceases to be weak.

The VICE CHAIRMAN. It amounts to a subsidy, in any event. If the Government buys a weak railroad and runs it, it helps build up a weak community, and in that way helps the country as a whole.

Mr. THELEN. I think much would depend on what the Government pays for the railroads.

The VICE CHAIRMAN. Well, that is an important element in any system you can mention. While we are doing something, we might as well do something that is beneficial.

The CHAIRMAN. You spoke of Government ownership having the advantage of the superior borrowing power of the Government. Do you think there is danger of that being offset by the larger operating expenses if the Government should own and operate railroads?

Mr. THELEN. I have not expressed any opinion on that particular question. That is a debatable question, and I would like to obtain some more light before expressing an opinion as to operating ex-

penses. As far as the cheaper borrowing power of the Government is concerned, I believe it is conceded by everyone who has given any thought to it that that is the fact.

The CHAIRMAN. What would your view be as to the superior borrowing power of the Government—to what extent, as represented in the rates of interest, is that superior borrowing power demonstrated to-day?

Mr. THELEN. To-day, with the war conditions, everything is abnormal. Apart from war conditions, speaking very conservatively, the borrowing power of the Government has been at least 1 per cent better than that of private concerns. I think that is a conservative figure.

The CHAIRMAN. That has been so in the past?

Mr. THELEN. Yes, sir.

The CHAIRMAN. Do you think that would be so if we should add, as the war is likely to, \$25,000,000,000 to our public debt as the result of this war?

Mr. THELEN. I assume that the addition of that debt would increase or result in increasing to some extent the cost of money to the Government, but I believe also that the cost of money to private concerns is going to be considerably higher in the future than it has been in the past.

The CHAIRMAN. So you think the increase in interest to the Government will be paralleled by an increase in interest to private enterprises?

Mr. THELEN. I do not know whether it would be exactly paralleled, but I would look for increases in interest rates to both the Government and private parties.

The CHAIRMAN. Are you conscious that in the past the very low rates of interest which prevailed with reference to Government securities have been due very largely to the fact that those Government securities have been used and have been authorized by law to be used as the basis of bank issues, and also due to the fact that these Government issues have, to a greater or less degree, been free from taxation?

Mr. THELEN. I assume both factors must have had an influence. May I make this suggestion? Senator Cummins led me somewhat beyond matters to which my associates either on the committee on State and Federal legislation or on the California commission have given thought, and so I would like to have it understood that what I said have been my own views.

Senator CUMMINS. I understood that. From the very nature of things it would be your own individual opinion.

Mr. ESCH. Would the saving of interest under Government ownership be neutralized by an increase in the expenses of operation by the Government resulting from the reduction of hours in services and increase in the number of employees?

Mr. THELEN. That is the question which I believe Senator Newlands put to me, and I made this answer: That whether the operating expenses would be increased materially is a debatable question. On the one hand, it has been urged strenuously that would be the case, but on the other hand, those who favor Government operation say that the increase would not be material. I haven't looked sufficiently into that question to give you an answer now.

Mr. ESCH. The suggestion occurred to me by reason of the experience in the western part of France. We have just gone through that experience.

Senator CUMMINS. I want to clear up a question or two. The differences between the Government rate on money and the private rate is not confined to the United States. The difference between the Government rate and the private rate in Great Britain is practically the same as the difference between the Government rate of money and private rate in the United States, or at least it has been.

Mr. THELEN. I understand it has been.

Senator CUMMINS. It is not due entirely, of course, to the ability of the owners to use their bonds as the basis of issuing currency. It must be due somewhat to the superior stability and security of governmental obligations.

Mr. THELEN. Yes, sir.

Mr. SIMS. I have just one question. Senator Cummins proposed as a possible solution the Government purchasing all the railroads of the United States. I must assume that he means that the Government will pay what they are actually worth and no more. If a railroad is capitalized and bonded at \$2,000,000, but the actual value is only one million, it can not make a return on the \$2,000,000 at the present charges allowed for freight or passengers, but it could make a reasonable return on \$1,000,000. Therefore, if the Government buys the roads at the actual value and the water is squeezed out, can not they make a return on that?

Mr. THELEN. Yes; except that some can not make even operating expenses.

Mr. SIMS. I assume that they can make something. A railroad that can not make operating expenses should not exist unless it is a governmental facility needed in the national defense and out of which the whole country get some benefit.

Senator CUMMINS. My suggestion was not limited to the Government acquiring ownership of these properties. It included also—and I am expressing no opinion as to which should be done—the acquirement of the new groups which I have proposed by a private corporation. In that event the private corporation would have the right to exercise the right of eminent domain and would condemn these properties and pay for them what they were actually worth without any regard to stocks and bonds, the amount paid for them being distributed among the bondholders and stockholders in proportion to their several interests and in accordance with priority of other liens.

Mr. SIMS. And they would have to make earnings on only what they are worth?

Senator CUMMINS. I assume that the new owners would pay only what the railroads are worth.

Mr. SIMS. I mean, in collecting charges and rates and fares, that they would be based on what they paid for the railroads.

Senator CUMMINS. It might be that in that case they may receive more or less than they had received before.

Mr. THELEN. Mr. Chairman and gentlemen of the committee, I wish to say that I appreciate the consideration the committee has given me.



The VICE CHAIRMAN. We thank you for your contributions on this subject.

(The exhibits requested to be furnished by Mr. Thelen are printed at the end of this volume of hearings.)

### STATEMENT OF EDWIN O. EDGERTON.

The CHAIRMAN. Mr. Edgerton.

Mr. EDGERTON. I come not here as an oracle nor will I impose upon you a bundle of opinions. My excuse for being here is that I have been saturated fairly well with regulation for the last five years. I have a view perhaps not held commonly by State commissioners. I beg it to be conceded at least that what I say will not be in my interest as a State railroad commissioner; perhaps not against it. In any event, I will be brief.

I propose to discuss these things: Federal regulation of railroads as compared with State regulation; lack of railroad policy, the need of it; and then to touch upon public ownership. I am for a complete and immediate Federal control of the railroads, for all of the reasons that go to make up regulation, starting with service, which I think is at the top: I do not believe that the needs for service by a railroad in a State can be adequately considered except it be related to the needs of other States, where you are dealing with national railroads. As we have the situation to-day, it is the unquestioned duty of State railroad commissions, as far as they may, to see to it that their State is adequately served, but obviously those commissions can not have in consideration the needs of other States.

The California railroad commission ordered the Santa Fe Railroad to build an extension in this State. That matter is now in the courts. We think our conclusion is sound, both equitably and legally. The courts will speak on that. The point I want to make about it is this, that naturally we were considering California's needs. We do not know and we can not know whether if the need of California is served a greater need in another State will fail to be served, because California has acted vigorously and has had the advantage of the order. If more cars are needed in a State, obviously the State will be ambitious and vigorous to get those cars. It may be that the cars will be provided at the expense of the needs of another State, and I am not talking on academic questions, gentlemen, because these matters were pressing before we got into the war. The situation has been accentuated since. Shippers in California were flooding our commission with demands for cars, cars unquestionably needed to haul their produce to market. Our service men were keeping as close watch on the situation as possible. I won't go too far into the results, because there are members of other State commissions here and I do not want to give them any undue advantage. It was concluded, however, that California in some respects was getting at least its share.

Rates, in my judgment, in a State are intimately connected with interstate rates and rates in other States; connected not only in the matter of a like service properly being given for a like rate wherever the service may be rendered, but connected intimately with the finances of the carrier, which is giving the service. State and inter-

state. You can not fix a rate in a State without at least in some degree affecting the ability of the railroad to give service at rates in other States and interstate. It is also true that there is no reason why a like service in one State should be rendered at a different rate in another State, each being a State service. It is true, perhaps, that discrimination does not result in the sense that we ordinarily use that term, because perhaps these shippers may not be in competition. It nevertheless remains true that it is unjust that one should receive the service for less than another, a like service.

Finance: It seems to be generally agreed that the Interstate Commerce Commission should control the capitalization of railroads. I say "generally," because perhaps there is more agreement on that subject than perhaps almost any other subject connected with this discussion. In the California commission we have complete jurisdiction. We pass upon the amount of bonds and stocks and other evidences of indebtedness that the railroads may issue and the public utilities may issue. And I assume when national control of capitalization is spoken of it is meant complete control of the capitalization, not only that the Federal authorities shall say how much or what quantity of securities may be issued but the national authorities shall have power to follow the proceeds to a proper end.

Now, it does seem obvious to me that the authority which has the responsibility and the power to determine what the capitalization of a railroad shall be, and therefore what its finances shall be, should also have the power and the responsibility of determining what the rates should be. It is easily possible that a national authority may authorize an issue of capitalization by an interstate carrier upon a conclusion by that national authority as to what its earning power was, whether its earning power would support the proposed or ordered capitalization and then find that the action of a State in fixing rates would entirely undermine the foundation upon which the national authority acted, and a very different revenue would result from that upon which the national authority had based a conclusion. If your answer is that, after all, all rates must be reasonable, and that the courts will insist upon it, and that a State can not therefore cut down the rates below such a point as would safely carry reasonable capitalization, my answer is that the courts do not fix reasonable rates. The attitude of the courts toward rates is a consideration of confiscation, and I assert that intelligent regulation is not, and should not be, an attempt to just escape confiscation; in other words, to so fix rates as to get by the courts. In my judgment railroads can not properly finance on a basis of being just above the confiscation line. It is possible that confiscation might be determined to be a point below the cost of money. I do not believe railroads can operate when they receive just the cost of money and no more.

In California the railroad commission has very frankly fixed rates, as far as the business has permitted it, on a basis of such a return to the corporation as would keep it financially healthy. We have not made the attempt to merely get by the courts. So that it is possible that if a State, feeling the need of lower rates, fixed rates on a basis to just escape confiscation, it might result in a return which was really inadequate to support the capitalization authorized by the national authority. I have pointed these matters out, because I believe that

they in general express the need for complete control in the Federal authority.

One other matter that I might suggest—terminals. Terminals, in my judgment, must be considered nationally. They are something more than mere State matters. The California commission to-day has before it in the city of Los Angeles the entire matter of railroad terminals. And we are proceeding, of course, as a State commission, and, in my judgment, we will proceed intelligently and come to a sound result, but we are not proceeding nationally. It may be, and of course my hope is, that what we do will fit in with the national needs, but it does not necessarily follow. If, for instance, a State commission determines that large terminal additions and large additional facilities are necessary they may require the expenditure of large sums of money by the railroad, and, as I say again, depriving some other State of an absolutely needed and necessary facility.

Lack of railroad policy and the need therefor: We never have had in the United States, and we have not to-day, a national railroad policy, or any railroad policy. We have to-day, it is true, policies by individual railroads, based upon the views of the managements of those railroads and the promoters. We have had no governmental railroad policy, nor have we to-day. I think I can prove that conclusively in a word. The railroads of the United States have been laid out with no regard whatever to the military needs of the country. That there are those military needs we feel to-day. This situation exists to-day: A cabinet officer of the Federal administration—and, by the way, I speak in no criticism here; I merely attempt to point to some facts that I think should be considered—a Cabinet officer to-day is pressing a suit in the Federal courts to tear apart an important railroad system, the Central and the Southern Pacific, so intimately built, so interconnected that their properties are mixed precisely as they would be had it been one railroad property. The fact is that for generations the Central and the Southern Pacific have been handled as one railroad property, the corporate entities of each being maintained for certain technical legal reasons involving bond issues by each. The Federal Government is pressing a suit in the Federal courts to tear that system apart. Other Cabinet officers are insisting upon unification of the railroads at this very moment, insisting on the railroads being brought together and operated as a unit in order to do the job as nearly as it can be done. Showing the lack of a national policy, we have one part of the administration seeking to do a thing, and if it succeeds in doing that thing the other part of the administration will have to at once attempt to its utmost to offset the effects of the victory.

Do we need a railroad policy? The railroad systems of the country to-day have broken down in the sense that they are not doing the job. It is true that we have an extraordinary demand upon them, but that demand is only extraordinary in its degree. The railroad men of the country for years past have been calling attention to the fact that the needs were coming upon them. We have from the railroad people themselves, before this crisis came, the positive statement that the railroads were not preparing to meet the needs of the country, and I think the country is convinced to-day that that is true. The railroads of the country are not meeting the need, and I can, I think, prove that in a moment. To-day in California our great road-building project,



involving \$30,000,000 or \$35,000,000, is about to be halted, if not seriously interfered with, by an embargo about to be put upon the use of gondola cars. Let me say at once that California cheerfully acquiesces in the proposition; the national need is recognized; it is here. I point it out merely to show that the railroads are not meeting the war needs and meeting the business needs of the country.

Public ownership: To me the problem is this: There is a national job to be done, national in its every aspect. Railroading to me is national. The job is not being done. We have proceeded with private ownership under regulation (and let me say right here that instead of the railroads being overregulated the difficulty they are now in is caused by insufficient regulation), and the only chance—and I want to say very frankly that in my judgment it is a slight one—for the survival of private ownership is that affirmative and extreme regulation be promptly applied. When I say affirmative regulation I mean that kind of regulation which compels development of railroads to meet the national needs. That can not be a veto regulation; it can not be a mere passing upon the matters which are presented by complainants or by railroads. It must be an affirmative conception by the Government itself, first of the problem, next of the solution, and then an insistence upon that solution. That regulation may even go to the point where it would leave in private ownership the mere formal title to the property. When we speak of regulation we are using a very general term. As I suggest, it may go so far as to leave the mere title in the hands of the private interests, and it might go so far as to make the next step—public ownership—almost a formality. My proposition is simply this: An enormous job to be done, and not being done; private ownership must do it, or the next step is inevitable—there is no other way—and that is public ownership and, I think, operation. There may be some modifications; that is to say, public ownership and operation may take a certain form. I am not now declaring for any particular form. My point is simply this: Either private ownership under regulation must do this job or the public must do it.

Having expressed these views, in fairness I should suggest a program. It is this: Give over at once the discussion of the merits or demerits of public ownership; consider and formulate the needs of the country; put that promptly up to the private owners of railroads and ask them their terms to do the job. If those terms are prohibitive, take the next necessary step and take it promptly—public ownership. I make this suggestion about promptness: If public ownership is determined upon it will not be an easy matter to work out the details; it will require perhaps years. These problems press for solution, and I feel that whatever remedy is determined upon should be determined upon promptly and the working of it out commenced immediately.

The CHAIRMAN. Will you state your occupation?

Mr. EDGERTON. Prior to my official position I was an attorney at law. In 1912 I was appointed to the railroad commission, of which I am now a member and have been ever since.

The CHAIRMAN. And you are a member of the commission now?

Mr. EDGERTON. I am now; yes, sir.

The CHAIRMAN. That is all.

Senator CUMMINS. You have looked at the question both from the practical and the legal standpoint I take it?

Mr. EDGERTON. To some degree, Senator, from the legal standpoint.

Senator CUMMINS. I refer to the matter of control of State rates for a moment and must not be understood in any questions that I am asking you that I am disinclined toward the enlargement of Federal authority to its limit, but there is one question that has bothered me a good deal. Our Constitution gives Congress the authority to regulate commerce among the States and foreign nations. Considering that article of the Constitution alone, is it your opinion that we have authority to regulate all commerce, whether among the States or in the State?

Mr. EDGERTON. My answer to that is no, as a matter of law. Practically, if you are thinking of railroads, my judgment is that of necessity the regulation would go to all matters of railroad operation. Might I explain what I mean by that, Senator? I will do it very briefly. Every railroad in the State of California which is confined entirely to California, with not an inch of its rails outside, is handling interstate commerce. I think I can make that sweeping assertion.

Senator CUMMINS. I think that is true——

Mr. EDGERTON. Yes.

Senator CUMMINS. Of every railroad in the United States, that it is engaged in some form in interstate commerce. The Constitution does not point out the railways as distinguished from other instrumentalities of commerce.

The VICE CHAIRMAN. There was not a railroad in the world when the Constitution was made, was there?

Senator CUMMINS. I assume that you have confined your suggestion to railroads because of the character of the business which they do?

Mr. EDGERTON. Well, yes; and further than that, if you should solve the railroad problem the same principles I think apply to the other utilities which become interstate and require national solution.

Senator CUMMINS. I have been in the habit of thinking that the Constitution might mean something when it confined our power to the regulation of commerce among the States, and that if we are to regulate the rates upon traffic which begins and ends within the borders of a State, that we must show that in some way or other those rates do concern or do affect interstate business or the ability of an interstate carrier to perform its duty.

Mr. EDGERTON. I think that is a sound statement.

Senator CUMMINS. I will assume probably an exaggerated instance in order to make my meaning clear. Suppose that a householder desires to ship household goods from San Francisco to San Jose simply because he is changing his place of residence; suppose that it is not alleged that the rate for that service, fixed by the California commission, or fixed by the railroad, is an unreasonable rate, either unreasonably low or unreasonably high; how can a shipment of that kind affect either the ability of the interstate carrier to perform its duty or interstate commerce?

Mr. EDGERTON. Assuming that now over the same rails——

Senator CUMMINS. Yes.

Mr. EDGERTON. And with the use of the same cars in which interstate commerce is carried.

Senator CUMMINS. You may assume that, of course.

Mr. EDGERTON. Well, now, of course, there certainly is an intimate connection between the service operating over rails which are used in interstate commerce and the service which is used in the State commerce or service.

Senator CUMMINS. You are referring now to the physical service?

Mr. EDGERTON. Yes.

Senator CUMMINS. I am referring to the compensation——

Mr. EDGERTON. Yes.

Senator CUMMINS. Which the carrier is to receive for the service.

Mr. EDGERTON. Precisely; and compensation results from service. In other words, I will assert this, Senator, that to some degree the State service affects the interstate service. Now, if you asked me what the courts will say is the degree of affection necessary in order to be an interference with interstate commerce, I can not say. It depends, I think, upon the disposition of the courts with regard to those matters.

Senator CUMMINS. I think that I agree with you in the general proposition that if the State rate—I am separating that from the physical service for the moment—does affect interstate traffic, that it brings the State rate within Federal control, but I am assuming now that the State rate is a reasonable one for the service rendered and does not impair the financial ability of the carrier to perform its other service. Under those assumptions, how is the State rate connected with interstate traffic?

Mr. EDGERTON. Connected in the legal sense, you mean?

Senator CUMMINS. Yes.

Mr. EDGERTON. Well, as you put it, I should say it would not be. Now, understand, Senator. I would want to analyze your suggestion of reasonableness to some extent. I don't want to do it at this time.

Senator CUMMINS. Well, I am trying to define what is or what is not a reasonable rate.

Mr. EDGERTON. No; I know.

Senator CUMMINS. But I can put it in another way. Suppose that some one were to attempt to appeal to the Interstate Commerce Commission against a rate of that kind, do you not believe that it would be essential for the complainant to allege that the rate was unreasonable in order to bring it within the jurisdiction of the Federal authorities?

Mr. EDGERTON. Or that the rate was a discriminatory one.

Senator CUMMINS. Precisely; yes.

Mr. EDGERTON. I assume you include that.

Senator CUMMINS. I do. Assuming an instance in which there could hardly be discrimination, of a shipment of household goods from San Francisco to San Jose, it would be pretty hard to bring that within the purview of what is known as the Shreveport controversy. What has bothered me is how we are to get the national authority in possession of a case of that kind in order that it might consider it and dispose of it.

Mr. EDGERTON. Well, I made this practicable suggestion—and I do not in any degree intend to be flippant about it, Senator—but my suggestion there would be that the national legislation include the whole subject, framed in such a way as to express conviction on the part of Congress on the facts with relation to the matter, and then if



a whittling away is to be done, that that be done by the courts, and let the other fellow do it.

Senator CUMMINS. Yes; but we, in passing laws, can only go to the limit of the Constitution. We can not go beyond that. Now, if we can not reach such an instance as I have put, through the commerce clause of the Constitution, is there any other—in other words, do you believe that through Federal incorporation Congress can regulate rates that would not be within its power if imposed directly upon a State corporation?

Mr. EDGERTON. I would say yes; that that would be true, at least to this extent, that Congress would have power over its own creature, that having created this—

The VICE CHAIRMAN. Whatever power Congress has is subject to the Constitution, and constitutions are made to control governments and laws are made to control people.

Mr. EDGERTON. Yes; I am not attempting here to dispose of the Constitution. I was trying to answer the Senator's question.

The VICE CHAIRMAN. That is what he was asking you. He said he did not know how we could get by the Constitution.

Mr. EDGERTON. I think the Constitution is safe between the Senator and myself. I had this in mind, Senator. Perhaps I should have suggested the matter of Federal incorporation and the reason for it; it seems to me a necessary incident to Federal control would be Federal incorporation. To have the creature of the State proceed out from that State, its character having been formed and all its clothes put on in the State, and then proceed in other States to carry on its being and function, is an absurd proposition. I think it has always been held that a State has control of its creature. Congress therefore would have control of its own creature.

Senator CUMMINS. Can Congress give to one of its own creatures authority to do an exclusively State business?

Mr. EDGERTON. I doubt that it could—an exclusively State business.

Senator CUMMINS. Do you think that Congress has the power by legislation to establish a rate between San Francisco and San Jose upon the goods that I have mentioned?

Mr. EDGERTON. That is, on a railroad that has no interstate business?

Senator CUMMINS. Suppose it is interstate business; suppose it is your Southern Pacific Railroad Co.; can it say that the Southern Pacific Co. shall charge 50 cents a hundred or a dollar a hundred for the transportation of a carload of household furniture from San Francisco to San Jose?

Mr. EDGERTON. Yes; and I say that for this reason, that I believe an adequate conception of the relation between the rates that you mentioned and interstate rates and the whole effect upon interstate commerce and interstate relations is such—

Senator CUMMINS. That brings me back to the question I originally asked you, namely, whether there is any significance at all to be given to that clause of the Constitution which gave us authority to regulate commerce among the States, and I take it your view is that there is no such thing as intrastate commerce, that it is all commerce among the States?

Mr. EDGERTON. That is to say, it all affects the whole situation.

Senator CUMMINS. Well, we are given authority to regulate commerce among the States.

Mr. EDGERTON. Yes, sir.

Senator CUMMINS. You say under that authority we can regulate every shipment that is made, whether it passes from one State to another or whether it originates and ends within a State. Now that is the equivalent of saying that Congress is given the authority to regulate all commerce.

Mr. EDGERTON. Well, perhaps it is the equivalent. I would not put it in just those words, Senator. I would put it in this way: Having been given the power to control commerce between States, that the necessary incidents to that power would go with it, and that therefore Congress would have the power to legislate upon all subjects which affected that interstate commerce, and I can only suggest that the line to be drawn between those things which do affect interstate commerce in railroad service and those which do not is a matter which might be one thing to-day; 10 years from now it might be another.

Senator CUMMINS. You think, then, that a law which would empower the Interstate Commerce Commission to fix all rates for all carriers engaged in interstate commerce would be a constitutional law?

Mr. EDGERTON. I believe so.

Senator CUMMINS. That is all.

The VICE CHAIRMAN. I yielded my turn for cross-examination to Senator Cummins because I did not care to examine a lawyer on questions of law. I do not see how we could get very far if I attempted that.

The CHAIRMAN. Mr. Sims, you may proceed.

Mr. SIMS. What is your judgment as to the constitutional power in the State of California (supposing it has all the powers of every other State) to build and operate a railroad or build and operate all the railroads it pleases within its own bounds and fix rates and charges on them?

Mr. EDGERTON. I assume it has that power.

Mr. SIMS. Therefore your opinion is that in law the State of California has the right absolutely as a legal proposition to control the rates on business that emanates in California and does not go beyond its boundaries?

Mr. EDGERTON. No; that would be directly contrary to what I just said. I may have misunderstood your proposition. I understood you to say the State of California could build and operate a railroad in the State, it being only State business, and control the rates.

Mr. SIMS. Absolutely.

Mr. EDGERTON. Yes.

Mr. SIMS. And I say if it can do that, is not that controlling rates just as effectively as if it should make an order of its own as to business done within the State?

Mr. EDGERTON. That is true.

Mr. SIMS. One is no greater exercise of power than the other is?

Mr. EDGERTON. No.

Mr. SIMS. It can do it by building and operating a railroad, and it can do it by its orders?

Mr. EDGERTON. It can.

Mr. SIMS. If it can do it constitutionally by either process, how could the National Government come in and be interested in the control in that which the State has absolute power to control?

Mr. EDGERTON. Not unless it affects interstate commerce, as I have said.

Mr. SIMS. If it builds and owns all the railroads in the State, then interstate commerce can not come in. Has the State of California a right to deny an interstate shipment?

Mr. EDGERTON. Over its own road?

Mr. SIMS. Yes.

Mr. EDGERTON. I am very frank to say that is a matter I have never considered. I doubt that it would have the power to deny the interstate shipment, assuming proper proceedings have been taken to force the shipment through.

Mr. SIMS. Well, then, I suppose your conclusion is——

Mr. EDGERTON. I make that suggestion in view of certain things. For instance, if it could successfully deny that privilege, it could absolutely exclude interstate commerce, and the control over interstate commerce by Congress would amount to nothing; you destroy it.

Mr. SIMS. There would be none to control?

Mr. EDGERTON. None to control.

Mr. SIMS. In other words, your idea is that the power to regulate commerce between the States is supreme, absolutely supreme, as against any State in the Union to pass any kind of law that may affect that commerce?

Mr. EDGERTON. I should say so. I am enough of a federalist to say that.

Mr. SIMS. Therefore you believe in the nationalization of all facilities in interstate commerce?

Mr. EDGERTON. Yes.

Mr. SIMS. You believe it can not be done as well by any other kind of facility——

Mr. EDGERTON. I do.

Mr. SIMS. From the fact a State may control absolutely an intrastate facility and in that way impair the ability of an interstate facility to do its business.

Mr. EDGERTON. Yes; for that and other reasons, I believe—by the way, what I have said about Federal control assumes that adequate machinery be provided. I am not suggesting that the Interstate Commerce Commission, as now organized, be suddenly burdened with this added task, with no added machinery. I am assuming that the machinery will be worked out, and I think if it is done that it can more adequately and efficiently do the job.

Mr. SIMS. But I suppose you mean to admit that if a railroad runs through one State and then through another that neither State has a right to fix a rate on the business done within its borders on this interstate railroad at such a rate that would seriously impair the ability of the railroad to do a like business in the other State.

Mr. EDGERTON. Exactly.

Mr. SIMS. And therefore indirectly, if in no other way, it has a right to determine all questions of rates that may affect the ability of the railroad to serve the two States or as many States as it goes through.

Mr. EDGERTON. Exactly.



Mr. SIMS. You think that is higher than the statute of any State to control the operations of the traffic that may originate and end in its own borders?

Mr. EDGERTON. I certainly do.

Mr. SIMS. Well, I think your statement is clear enough for any of us to understand. Thank you very much.

The CHAIRMAN. Mr. Esch.

Mr. ESCH. Well, under your theory, what would there be left to the State commission?

Mr. EDGERTON. Practically, you mean?

Mr. ESCH. What will be left for them to do?

Mr. EDGERTON. The immense field of regulation of the State utilities, such as the electric companies, gas companies, water companies—

Mr. ESCH. I know. I was referring to the interstate carriers with which we have direct concern.

The VICE CHAIRMAN. Let them regulate everything but the railroads.

Mr. EDGERTON. All right; now, let me give you briefly my view on that, and that is a very practical question, and to some degree it answers. I think, this suggestion of cooperation. Let me say right at this point my experience with cooperation is this: If everybody is in agreement, cooperation occurs, of course. If the matter is controversial, cooperation gets you nowhere unless somebody can swing a club, and unless in the cooperative scheme there is a rule which can end discussion and determine the issue. Cooperation between State commissions and the Interstate Commerce Commission will very easily result in this: A State commission from the State's standpoint—and that is a proper standpoint—standing upon its determination of reasonableness; the Interstate Commerce Commission with its interstate conception, standing upon its determination of reasonableness, cooperation—to iron out the differences—could only mean compromise. Now, compromise means that one jurisdiction or the other gives up its functions to some degree. Now, answering your question, "what would be the function of the State commission," my judgment is this: Let the State commission, freed of the control of the railroads, frankly a partisan for its State, out in the open as a partisan for its State, a litigant, appear before the interstate body: in my judgment, the State commissions could function more efficiently in that way than they can in the peculiar status they are now of a judicial body at times called upon to appear in a partisan capacity, considering the very questions as a partisan on which they must act as a judicial institution, an impossible condition to continue, and, I think, they would be more effective as frank partisans, vigorously urging the rights of their States, and with the power in the Interstate Commerce Commission to decide the matter.

Mr. ESCH. The State commission, then, could only act in an advisory capacity and could have nothing to do with the ultimate judgment.

Mr. EDGERTON. That is my idea; yes, sir.

Mr. ESCH. Well, applying your doctrine, then, to the Shreveport case, how would it work out?

Mr. EDGERTON. Well, the Shreveport case never would have come up. The Interstate Commerce Commission would have determined the rates and ended the whole controversy.

Mr. ESCH. Well, you understood the recommendation——

Mr. EDGERTON. For instance, here is what would have occurred: The one State which was insisting discrimination had resulted because of the action of the other State, each would have appeared before the Interstate Commerce Commission, raised the question of discrimination, and the Interstate Commerce Commission would have settled it.

Mr. ESCH. Then you agree with the recommendation of the State railway commissioners, in their meeting recently in Washington, on that matter?

Mr. EDGERTON. Frankly, I do not.

Mr. ESCH. Why?

Mr. EDGERTON. Because I do not think it is a remedy.

Mr. ESCH. In what respect?

Mr. EDGERTON. Because I do not believe that cooperation will result in settling any important matters where real controversy exists; where real differences of opinion exist it will result in nothing but a waste of time.

Mr. ESCH. Then, your idea——

Mr. EDGERTON. In other words, it seems to me that a State commission sitting at the bench can just as efficiently urge the reasons why the interest of its State should result in a certain thing, and, in fact, more efficiently, more vigorously, than it could do in a conference where it was called upon to consider interstate matters, and, on the other hand, the Interstate Commerce Commission be called upon to consider State matters.

The VICE CHAIRMAN. Each stepping out of its jurisdiction. Isn't it true that the only way that line of demarcation would ever be established is for Congress to pass a law and let the Supreme Court pass upon it?

Mr. EDGERTON. In a word, that is true. And that is no flippant suggestion, because there are some of these matters which depend in a degree——

The VICE CHAIRMAN. The Federal Government is the final arbiter as to what is State and what is interstate.

Mr. EDGERTON. By Federal Government you mean which branch?

The VICE CHAIRMAN. I say it is the final arbiter.

Mr. EDGERTON. You mean the whole Federal Government?

The VICE CHAIRMAN. Yes; the Federal Government is what we are talking about. Let Congress pass a law that such-and-such is the field of interstate commerce, and the Supreme Court will say whether or not that is constitutional.

Mr. EDGERTON. That is what I had in mind when I suggested legislation.

The VICE CHAIRMAN. One or the other has to be supreme on each question.

Mr. EDGERTON. That is what I had in mind, Mr. Adamson, when I suggested that the legislation include a clear, specific declaration of fact—that this is interstate commerce.

The CHAIRMAN. Mr. Edgerton, assuming that the entire railroad system of the United States should be national, how would you change or add to existing laws in order to accomplish that?

Mr. EDGERTON. Senator, you ask me to word the act. I could not do that at this time; no, I would not attempt to do that.

The CHAIRMAN. Well, would you have a national incorporation act?

Mr. EDGERTON. Oh, yes. I would.

The CHAIRMAN. Would you change the form of the organization of the Interstate Commerce Commission?

Mr. EDGERTON. The form of the organization of the Interstate Commerce Commission?

The CHAIRMAN. Or add to it in any way?

Mr. EDGERTON. Yes.

The CHAIRMAN. How would you do it?

Mr. EDGERTON. Let me premise what I have to say on that score by saying this, that I have not given detailed consideration to just how to work this thing out. The suggestion of regional commissions is an appealing one. The question of whether there should be appeals from those regional commissions is a matter which ought to be very carefully considered, and if determined that appeals be allowed perhaps they should be limited, because one of the evils of the past condition has been interminable appeals, so that in reorganizing the Interstate Commerce Commission it should be kept clearly in mind that there is great need of expedition and there should be no more appeals than the national character of the institution would require. Whether or not, if you had regional commissions, you would need more Interstate Commerce Commissioners is a question. If the Interstate Commerce Commission was solely and only an appeal body, sitting in Washington, considering limited appeals, it may very well be that the nine members are sufficient in number. On the other hand, if the Interstate Commerce Commissioners—there are nine of them now—would spread themselves over the United States, in regions, then it might be that more would be necessary. There are various conceptions; you might have Interstate Commerce Commissioners sitting in regions, each to a region; you might have them pass on the matters that came before them, then for them to meet as an appeal body. I have no mature judgment on the details.

The CHAIRMAN. Have you ever applied yourself to the framing of a national incorporation act?

Mr. EDGERTON. No; I have not.

The CHAIRMAN. Have you any suggestions to make as to the method by which the existing State corporations should be changed into National corporations?

Mr. EDGERTON. In that respect, I have this idea: If you mean the detailed machinery of that, no; if you mean the general conception, I have this idea, that it should not be left to the option of the railroads whether they would become nationally incorporated or remain State corporations, but it being determined that they should be a national corporation, that we are going to have complete Federal control, they should be forced to it, and I am not sure but that Congress has the power, for instance, to say that no railroad shall engage in interstate commerce except it be a federally incorporated railroad.



The CHAIRMAN. Would you advise legislation regrouping the various railroad systems of the country?

Mr. EDGERTON. No; I doubt very much——

The CHAIRMAN. Or in other words, would you simply authorize existing systems to become national corporations or would you give the Interstate Commerce Commission the power to determine what corporations shall be grouped together in one system and form a Federal corporation?

Mr. EDGERTON. Well, first, my conception would be one corporation. I go the limit of suggesting that if this is a national problem, it should be handled as such and that one railroad system should do the job. Now, if that is true, there would be one Federal corporation. If they are to be grouped, it might be suggested that each group have a Federal incorporation. Let me make this suggestion about grouping, in connection with what I said about putting squarely up to the privately owned railroads and their owners this job to get terms upon which they would do the job: The peculiar situation is now that there is no one spot to which you can go and put that proposition. The railroads are not together so you can make the proposition. You can not put this job up to them now as a whole because of their scattered entities. But I do not think that is the fault of anybody. It is a condition that must be met, and I think that should be put up to the railroads; that is, to say: "Here, much depends on what you do, whether you live or die as privately owned institutions. If you can not consider this problem as a whole and give us an answer as a whole, then there is no solution of it, and we must go to public ownership." In other words, I think the burden should be put upon the railroads themselves to get together to answer the question, and I want to say, when I use the words, "Forced to take up national incorporation," I use them in no offensive sense. My hope would be that the railroad men who now—and, I think, conscientiously—tell us that they have pretty nearly come to the end of the road under existing conditions, if they mean what they say, ought to welcome a chance to live—and I think it is only a chance.

The CHAIRMAN. This suggestion of the national incorporation of railroads has been referred to upon several occasions as the "railroad plan." I wish to state in that connection that for 10 years I have been urging the national incorporation of railroads, as a member of the Interstate Commerce Committee in the Senate, and that during the entire period, when that committee was supposed to be under very conservative control, the railroads opposed national incorporation, and those conservative men, who were at all events not in favor of any radical regulation, were also opposed to it. It is only recently that the railroads seem to have taken up this question of national incorporation, and individually I object to the term, "the railroad plan," as applied to national incorporation.

Mr. EDGERTON. Well, yes. Let me say this, that to my notion it is utterly unimportant that the railroads may have presented a plan unless it is a good plan. The fact that there may be objectionable features to it is not important. Whatever is worth while in it should be adopted. There are some things, of course, that might be safeguarded.

The CHAIRMAN. I wish to be understood, in that connection, that I have no objection whatever to the railroads presenting any plan, and I am disposed to fully and fairly consider it; but I object to the use of the term "railroad plan," as it often is used with a view to prejudicing the public mind.

The VICE CHAIRMAN. I have no doubt that the railroads did learn a good deal from Senator Newlands and other high sources, but the fact is they have recently formulated a plan, which you allude to, deriving, no doubt, assistance from the Senator and others. But they did present a plan which they proposed first to the President and then elaborated to this committee, and they had a right to do it. The railroad men own this property, and the railroad investors. They have the same right that other men in this country have to own property and to go to Congress and propose a plan and to talk to Congress about it.

Mr. EDGERTON. Undoubtedly.

The VICE CHAIRMAN. And while recognizing all their rights in that capacity, they must be held in the same accountability as other citizens. Nobody ought to complain.

Mr. EDGERTON. No; and I would say this: That if you Congressmen have put over on you a bad suggestion of the railroads, my idea would be that you are the fellows to hold responsible and not the railroads. [Laughter.]

The VICE CHAIRMAN. I realize that myself, and I do not propose to be bamboozled. [Laughter.]

You suggested a method of national incorporation which has heretofore appealed to me as practicable, and that is if we are going to have any kind of unified ownership and national control, it should be done by one corporation and not by many, unless we are going to continue competition between so-called groups of systems.

Mr. EDGERTON. Now, I have lost all my confidence—

The VICE CHAIRMAN. I had not finished. I repudiate the doctrine that by creating a corporation anybody can escape the constitutional limitations. It is utterly incomprehensible to me how Congress or the authority that creates a corporation can have anything to do with its subjection to the sovereignty and limitations of the Constitution.

Mr. EDGERTON. No.

The VICE CHAIRMAN. Under the commerce clause of the Constitution, the power is compulsory.

Mr. EDGERTON. Yes.

The VICE CHAIRMAN. And it covers everything and everybody that engages in interstate commerce?

Mr. EDGERTON. True; this is a comparatively simple suggestion, though, in that connection, that if the Federal authority has the right to create an entity—

The VICE CHAIRMAN. It is merely an act of Congress, and every act of Congress has got to be subject in every particular to the Constitution.

Mr. EDGERTON. And States are subject to the rights of the Federal Government, to this degree, at least, that they can not interfere with the rights given to the Federal Government.

The VICE CHAIRMAN. There is no doubt about that, but the Federal authority has to be asserted by an act of Congress, whether it is to incorporate a company or otherwise, and every act of Congress has to be subject to the Constitution.

Mr. EDGERTON. Yes; that is true.

The VICE CHAIRMAN. Mr. Chairman, some of us have an idea that we might work a little more while we are here, and there are other witnesses here from a distance at great expense, and they would like to see expedition; so I move that we hold two sessions to-day, and that we now adjourn until half past 2 o'clock.

Mr. ESCH. I would like to ask Mr. Edgerton another question.

The VICE CHAIRMAN. He can return. We can wait for 5 or 10 minutes. I withhold the motion for the present.

Mr. ESCH. You stated, Mr. Edgerton, that there had been no railroad policy up to date, and that the railroads had not met the military needs as indicated by the present crisis. Under private ownership, as it has heretofore existed, can the Government compel private property or individuals to meet the military needs of the Government in regard to railroads?

Mr. EDGERTON. It could, of course, as a condition for permitting a new institution to commence. You are think of those that now exist?

Mr. ESCH. Yes.

Mr. EDGERTON. To this degree, I would say that it could; it can compel, in my judgment, extensions of existing facilities. Now, perhaps it should be said reasonable extensions. What they are will depend upon the circumstances of each case. If you ask me this question, which I am somewhat fearful the California Railroad Commission will go up against some time—if you ask me if war needs were such as to require an extension of the existing railroads and the railroads could not finance it, could the Government enforce its will. I would say to you that probably to the extent of the full use of the existing facilities, but that it could go into the pockets of the stockholders and take money out and put it into that extension, I do not believe.

Mr. ESCH. Where that extension only subserved a military purpose and did not subserve a commercial purpose which would develop profits for the company, you would not justify the exercise of any such power, would you?

Mr. EDGERTON. Right there we may come to the parting of the ways. It may be that the unquestioned need of private capital for earnings will result inevitably in public ownership, for this principal reason, that it seems to me clear that the whole transportation question must be considered, first, from the standpoint of service. The service must be rendered. If that service can not be rendered by private capital, which must have a profit, private capital must step aside and the public must do the job. That is all I can say about that. I want to say very frankly that I absolutely agree with the railroads in this particular: They can not finance railroads except profits will accrue for the capital invested. It can not be done, because we have no control under the present scheme of things whereby we can force capital into a privately owned enterprise.

The VICE CHAIRMAN. By appropriate action, though, according to Mr. Esch's suggestion to you, the Government can do anything



by making due compensation. There is no trouble on that proposition. On your other proposition, how can there be, under the Constitution, any difference as to the power of control and regulation based on ownership of property? Has not the sovereign body the same power to regulate the property of subjects as it has to regulate its own property for public purposes?

Mr. EDGERTON. Your suggestion going so far as to take money out of the pockets of the stockholders, out of their bank accounts?

The VICE CHAIRMAN. I am going back to your alternative now. If you gentlemen succeed, you will take Government ownership. I make that suggestion to you in answer to your thought that the sovereign may regulate any property for the public good, whether it is its own property or the property of the State; that as to the sovereign it makes no difference as to the proprietary ownership.

Mr. EDGERTON. Yes; as a sovereign, of course; and I would make this suggestion, and perhaps it goes to some of the things Senator Cummins has suggested, the necessity for increasing the earnings of some of the desperately conditioned railroads. It seems to me that one of the things that should be put up to the railroads privately owned now is this: What are your terms to do the job, in the way of compensation? It having been determined, the necessary number of millions or billions that must be invested, put the question squarely up to the railroads, "What will you have to earn?" If that price is prohibitive, then I say public ownership inevitably follows, unless you take the position that there will be no railroad service except it pays.

The VICE CHAIRMAN. Then, how will you justify the Government in taking it and operating it, if it will not pay? Will they tear it up?

Mr. EDGERTON. No.

The VICE CHAIRMAN. If they do not, there will be a subsidy to it.

Mr. EDGERTON. Let me point to the Panama Canal, and let me say to you that the Panama Canal, in my judgment, will be maintained by this Government at the highest point of efficiency, whether it pays or not.

The VICE CHAIRMAN. Do you think that presents any analogy to the competitive conditions of railroads in this country?

Mr. EDGERTON. My suggestion is to wipe out competitive conditions and to repeal the Sherman Act in every essential particular in which it interferes. Let me make this suggestion, in talking about the Sherman Act. I think we have to a large degree forgotten it right now.

The VICE CHAIRMAN. You are confusing war conditions and peace conditions. Under war conditions, we concentrate; under peace conditions, we diffuse and build up and fatten up the country.

Mr. ESCH. But your remedy to meet military needs would reduce itself practically to Government ownership?

Mr. EDGERTON. Yes. I have tried to refrain here from expressing a mere opinion. I have tried to avoid saying I am for this, that, or the other. I have expressed grave doubt, and I have grave doubt, whether, first, such regulation will be provided as I think will have to be provided to meet the situation, and when I say that I mean affirmative regulation. And I, secondly, have doubt that the conditions are such that there is time to work the problem out under regulation. I am inclined to think that the time has come when we are

going to be kicked into public ownership, and I have some considerations in mind. I am not at all sure but that we may be faced with labor conditions on our railroads that will literally force us into public ownership, and I would suggest the telephone situation in California, a very grave situation. It is suggested now by the Federal representatives that the Government immediately take over——

The VICE CHAIRMAN. We have got authority under an act of the last Congress, in time of war, to take possession of any common carrier, telephone, telegraph, or railroad, if it is necessary for the public defense.

Mr. EDGERTON. Yes; and I make this suggestion, that after the war conditions will be such that there will be as much need, and perhaps more, for efficient transportation facilities than we have now; and I do not believe, if the railroads are put together under any scheme during the war, that you are going to be able to disentangle them afterwards and do the business of the country.

The VICE CHAIRMAN. We will have to find some magician to solve the paradox. The railroad problem is to furnish more revenue without paying more money, and the specific proposition to which you refer is to make more revenue and still pay everybody more wages.

The CHAIRMAN. I want to ask you one question. Have you given any thought to the question of the coordination of rail and river transportation?

Mr. EDGERTON. Coordinated in what particular, Senator?

The CHAIRMAN. Well, I mean with a view to establishing a system that will bring the rivers fully and completely to the aid of the railroads and the transportation of the country.

Mr. EDGERTON. If by that is meant that the rivers must be favored more than they naturally would be, so as to make them efficient highways, I am opposed to it. In other words, I am very strongly of the conviction that we should use agencies which must naturally fit into the service. Of course, I am influenced, perhaps, in some degree by the arid conditions in the West. I am not at all sure but what the time will come when, for instance, our great Sacramento River will be more valuable if taken entirely out of its bed and used for irrigation and the production of enormous crops than it would as a highway. Therefore, I would not want to finally conclude——

The CHAIRMAN. If you could use it for both, would you think it desirable?

Mr. EDGERTON. I would; but, of course, this situation has grown up in California. It is true to a very large extent that river transportation was a leveler of rates to the extent it went; but this peculiar condition resulted, that where the river competed the rates on the railroad of necessity were forced down, and no regulating authority has ever been able to apply those rates to the rest of the State, because it had to be conceded they were what we call water compelled, and the result is that shippers on the railroad, if you please, are getting lower rates for the identical service where the railroad runs along the river or competes with the river than they are in other parts of the State.

Senator CUMMINS. You are getting into the long-and-short-haul clause now.

The VICE CHAIRMAN. But the trouble about the long-and-short-haul clause is that it means that everybody wants as low a rate as everybody else, and a little lower if they can get it.

Mr. EDGERTON. Broadly speaking, I would say this, that the railroad being an efficient agency—it certainly is a more efficient agency when you consider speed and certain other conditions, than the river, the river possibly a more efficient agency in some other aspects, and my suggestion would be this, that each agency be used to the full extent where it can best serve. Now, if there is a river which can be used without destroying the railroad agency, I should say use it. I should not say destroy your railroad agency merely to use the river.

The CHAIRMAN. Has your commission undertaken to fix rates for water transportation in this State?

Mr. EDGERTON. Oh, yes; we have those under our control.

The CHAIRMAN. Have you done anything in the way of requiring the railroads to coordinate with the water carriers?

Mr. EDGERTON. We have joint rates, if that is what you have in mind.

The CHAIRMAN. Have you done anything in the way of providing transfer facilities, etc., so that they can easily interchange?

Mr. EDGERTON. Nothing of any importance in that regard. As a matter of fact, Senator, I do not think we have had complaints on that score. I have not any in mind at the moment.

The CHAIRMAN. How far is the Sacramento River used for navigation?

Mr. EDGERTON. Used very considerably up to the city of Sacramento. Used some, of course—

The CHAIRMAN. How far beyond?

Mr. EDGERTON. I haven't the number of miles in mind, Senator. If I attempted to say with exactness, I would have a dispute with my railroad friends to some degree, because I believe the distance of navigation has entered into many controversies in this State; but I have not in mind the mileage.

Mr. BRADLEY. About 125 miles north of Sacramento.

The CHAIRMAN. It is moved that we recess until half past 2. If there is no objection, we will recess until that time.

(Thereupon the committee recessed until half past 2 o'clock of the same day.)

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#### APPENDIX TO MR. EDGERTON'S STATEMENT.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA,

*San Francisco, November 9, 1917.*

JOINT SUBCOMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, CONGRESS OF THE UNITED STATES,

*Palace Hotel, San Francisco, Cal.*

GENTLEMEN: On Saturday, the 6th instant, your committee was good enough to listen to a short statement of my views on some of the phases of the country's transportation problems you are now considering. I had in mind at that time to submit to your consideration a report I recently prepared as chairman of the special committee on public ownership and operation as contrasted with private owner-



ship and operation of public utilities, appointed last year by the National Association of Railway Commissioners. Realizing the demands on your time, however, it occurred to me that you would probably prefer to avoid an extended discussion of this report and have it called to your attention by letter.

You will note that my report is an attempt to deal in a non-partisan manner with the question of private versus public ownership and operation of utilities, especially the railroads, and is intended to rest on facts and not opinions.

Inasmuch as the views expressed by me were adopted by the majority of our special committee, and the National Association of Railway Commissioners at its recent meeting in Washington, D. C., created a permanent committee to carry on these studies, I may be pardoned in assuming that the report deserves consideration in your studies of this subject.

If you should agree with me in this assumption, may I make the suggestion that you incorporate it in your transcript, as an extension of my remarks, in the same manner that you incorporated the report of committee on grade crossings and trespassing on railroads, to the National Association of Railway Commissioners, and also the report on "Causes of receiverships of railroads," both of which reports were called to your attention by Commissioner Thelen.

A printed copy of my report, in the form in which it was placed before the National Association of Railway Commissioners, is attached hereto.

Yours, very truly,

EDWIN O. EDGERTON, *Commissioner*.

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REPORT OF SPECIAL COMMITTEE ON PUBLIC OWNERSHIP AND OPERATION  
AS CONTRASTED WITH PRIVATE OWNERSHIP AND OPERATION OF PUBLIC  
UTILITIES, 1917.

*To the National Association of Railway Commissioners:*

In last year's report of the committee on capitalization and intercorporate relations the recommendation was made—

that a new committee be appointed by this association to study the question of the relationship between the Government and the railroads, to consider the possibilities of cooperation between the Government and the railroads, and to report to this association at its next annual meeting.

This recommendation was discussed by the association, with the result that the motion put to the convention was broadened beyond the railroad issue, and the appointed special committee was instructed to—

consider and report at the next annual meeting on the question of public ownership and operation as contrasted with private ownership and operation of public utilities.

The association at that time realized how large a field for investigation it turned over to the special committee, and the intent of the national association was expressed by the president as follows:

That it is not necessarily the idea that this committee shall come here a year from now with definite recommendations as to whether public ownership is or

is not a good thing, but that the view is that this committee shall study the facts and a year from now shall report, making what may be called a progress report on facts, and if we are not ready to settle the question at that time, possibly the committee might go on further and collect further facts.

This interpretation was unanimously agreed to, and in order to avoid a one-sided report the president of the association appointed on this committee, according to his own statement, "men of the most conflicting views on that question."

At the time of the last meeting of the National Association of Railway Commissioners the national life of our country was running on its normal course, and although the world war had everywhere influenced our activities, as a Nation we were at peace. Our active entrance into the war alongside the forces of democracy was the beginning of a new era in the history of the United States, not only in the history of our international relations, but also, and probably of even greater importance, in the history of our institutions and our development at home.

We are living through a period of transition, of readjustment, of uncertainty. The relations of industry and State, of capital and labor, of special privilege and common duty, of private rights and common good, are undergoing tremendous changes. We are discarding existing business methods and standards as wasteful and unsound and trying new ones. But while we are rejecting the old we have not yet agreed on the new. To-day we are laboring in the midst of this change, and it is impossible to appraise properly what the day brings forth, or measure justly the worth or falsity of new values. This inevitable lack of perspective we must recognize if we are examining into these new relations.

Nowhere has this change more clearly and more strikingly manifested itself than in the relation of our principal public utilities—the railroads—to the people. When, therefore, a year ago the duty of this committee seemed to be a dispassionate study of the pros and cons of public ownership and operation, the force of world events has since overtaken us and removed our topic from the sphere of theoretical discussion into a place of acute and immediate importance.

The committee members, after consultation, are agreed that no report should be written—and, indeed, can be written—at this time with definite conclusions or definite recommendations for or against public ownership. The committee is agreed that any recommendation on so important a question should not be a matter of opinion, merely adding argument to the already endless controversy, but should be based on the most exhaustive and thoughtful study of all phases of the problem.

It has seemed to us that the committee at this time can do no better service for the national association than to report on two things:

First. To present to the national association its understanding and interpretation of the present-day trend of the changing relations between the public utilities and the people.

Second. Suggest to the national association an outline of the subject with recommendations indicating along what lines further investigations and studies should be made.

## I. THE TREND OF CHANGING RELATIONS BETWEEN PUBLIC UTILITIES AND THE STATE.

The heading we have given to the following observations might also read "the probable future of public utilities and of regulation." The answer to the inquiry is, in this report, based on observation of what appears to be an altogether unmistakable trend of forces. These forces appear to be operating alike, although with varying acceleration, in all countries with a public-utility problem: that is to say, in all civilized countries. Our answer here is not based on any conclusions reached by a study into the advantages or disadvantages of the two forms of ownership and operation. And we believe that argument on these advantages and disadvantages should not be indulged in until the proper basis for a discussion is established.

Irrespective of whether he is an advocate or an opponent of the theory that the interests of the people are best served by public ownership of utilities, the student must recognize the fact that public ownership, whether National, State, district, or municipal, is gradually replacing both regulated and unregulated private ownership. In countries at war—that is, in countries where the State insists on a maximum of effort—the march in the direction of complete public control appears to be more rapid than in countries leading a normal existence. But the direction is clear in both cases.

It would be interesting and profitable to analyze this tendency and to distinguish between National, State, district, and municipal ownership and operation of various classes of utilities. The subject is so large, however, that it can not be handled adequately in one report. We shall have to confine our observations in the main to the national unit.

## PRIVATE AND PUBLIC OWNERSHIP ABROAD.

Since we have been at war the experiences of our allies, especially of Great Britain, Canada, and France, have been observed by us with great attention, and as a Nation we are eager to repeat the successes of our allies and to avoid their mistakes. We might also, with profit to ourselves, learn from our enemies.

In Great Britain in 1914, before the war, the Government was about to act on the exhaustive report of the special committee on the telephone and telegraph situation, which recommended public ownership in a somewhat original form. In the national crisis that followed the declaration of war the investigations and negotiations were cut short, and the Government took over the plants on a combined valuation and net earning basis, and these particular two utilities are now operated under the complete and immediate control of the State.

An analogous situation existed with regard to the railways. Here, also, the British Government had an official board at work whose duty it was to inform the Government on the desirability of a change from regulated private ownership and operation to Government ownership or operation, or both. It was the labor and wage problem during the first months of the war that forced the Government's hands on the railroad situation. There was not time for a judicious weighing of pros and cons, for valuations, and other preliminaries. The State took the bold course of consolidating the privately owned



railway systems of Great Britain and Ireland under one operating management directly responsible to the Government, and guaranteed the owners of the properties against confiscation. A return to the owners is promised, based on average yearly earnings during a period before the war; but an analysis of the understanding between the railways and the Government shows how completely the needs of the State overshadow the rights of the individual.

It is interesting to note the method adopted by the British Government. The new management of the privately owned but State-controlled railways of Great Britain is concentrated in the hands of a committee of their own general managers, with a member of the cabinet as chairman and with one of the general managers as vice-chairman, the committee receiving its orders from and reporting directly to the Government. The consensus of opinion seems to be that under this direction the British railways have been fairly successful in handling the enormous military traffic which was turned over to them.

Even now the railroad situation in England is a question of labor's rights and duties rather than one of capital's rights and duties. The relative positions of capital and labor throughout all English industry have shifted toward greater power for labor to such an extent that a return to private control of railroads as it existed before the war is out of the question. What final form of ownership and operation will be adopted for the British carriers is not clear at this time, but it is certain that the Government will either assume complete control or remain the controlling partner.

The truth of this statement should be clear for many reasons. The consolidation of the rail transportation system and managements in England has shown some surprising results. An immense amount of duplication in service and consequently of man power, has been done away with. Only one example will be cited here, and one that shows clearly the radical nature of the methods adopted. On July 17, 1917, after its assumption of control over all coal mines in England, Scotland, and Wales, the British Government issued its "Coal transport order, 1917." This order abrogates all existing contracts between mine owners, carriers, and coal users, as far as the transportation of coal is concerned. The Kingdom is divided into 20 districts, and the transportation of coal is to be governed by the following main considerations:

- (1) That consumption of coal should take place as near the producing point as possible.

- (2) That in view of the superior facilities afforded by the main trunk lines, the movement of traffic should follow these routes wherever possible.

- (3) That the movement of coal should, as far as possible, be in well-defined directions, viz, north to south, north to southeast, north to southwest, and east to west.

- (4) That an area producing less coal than is sufficient for its own needs should not send any portion of its output to other areas; and that an area producing more coal than it requires for consumption within the area itself should only distribute the rest to immediately adjacent areas.

All coal contracts affected by this scheme were canceled on the evening of Saturday, September 8, 1917, and new contracts came into

operation on the following Monday, September 10. It is estimated by the British Board of Trade that the resulting economy will be over 700,000,000 ton-miles per annum. As British railways do not use the ton-mile in their rate statistics, it is not possible to put any money value on this estimate. It will, however, be appreciated that there is bound to be a large reduction in train mileage and, by leading this coal traffic into its natural channels, a great saving in switching. Locomotive power will thus be reduced and a considerable saving in labor effected. There will, of course, also result a very great saving in coal-car equipment.

We are citing this instance as an example of what can be accomplished along similar lines by sensible analysis and planning of traffic problems. In our country the possibilities in this respect are immense.

In France, where before the war State owned and operated railroads existed alongside privately owned and operated carriers, one of the first acts of the Government after the outbreak of hostilities was the assumption on the part of the Government of complete control of rail transportation. We are all familiar with the vital importance to her very existence of the railroads to France. The American railway regiments that have recently gone over to assist in rehabilitating the overtaxed and run-down railway machine will do their work on account of the French Government and not on account of any of the remaining privately owned railways.

Italy, where the State shortly before the war had taken over all the principal lines, duplicated the action of France when war was declared and assumed complete control of all roads.

The deplorable breakdown of Russia's railway transportation system is proof, on the negative side, of the essential importance of unified and efficient control of railways during time of national crises.

In Germany, the pioneer in Government ownership, the railways are owned by the principal individual States of the Empire, while the railway management of the country as a whole and the direction of operation, of finances, and of rates rest with a central authority, which constitutes a department of the national government. It is everywhere fairly understood that during this war its railways have formed the backbone of Germany's military and economic strength.

In a less degree this is true of Austria-Hungary. While in Germany there are no longer any important private lines, a few were in existence in Austria prior to the war. They have since been taken over by the Government.

It is impossible at this time to secure authentic railway statistics of the majority of the countries affected by the war, and the latest official data on the mileage, capitalization, and proportion of government owned and privately owned lines in the countries of the world dates from the year 1913. The mileage figures in the following table are taken from the official publication for the German railways, the Archiv Fuer Eisenbahnwesen, and the remarks in the last column are from various latest and best sources.

*Mileage of private and State railways of the most important countries of the world (mileage figures for 1913).*

[Asterisk denotes countries engaged in war.]

## EUROPE.

Country.	1913 mileage.			Remarks.
	Total.	Private.	State.	
*Germany.....	39,831	2,998	36,833	Ownership by private individual States; unified national operating control.
*Austria-Hungary.....	28,872	5,293	23,579	Hungary owns and operates its own railways; unified national operating control for dual monarchy.
*Great Britain.....	23,572	23,572	.....	Private ownership; conditional guaranty of return; complete Government control of operation.
*France.....	31,992	26,350	5,642	State-owned mileage now considerably larger than in 1913; conditional guaranty of return for privately owned roads; Complete Government control of operation.
*European Russia.....	38,873	14,167	24,706	State-owned mileage increased since 1913; no guaranty of return for private roads; complete Government control over all lines.
*Italy.....	11,021	1,878	9,143	State mileage increased; no definite Government guaranty of return for private roads; complete State control of operation over all roads.
*Belgium.....	5,508	2,787	2,721	Lines in occupied territory operated as part of State-owned lines of Germany.
Luxemburg.....	328	205	123	
Netherlands.....	2,035	915	1,120	
Switzerland.....	3,039	1,328	1,711	
*Portugal.....	1,864	1,147	717	Governmental commission appointed to report on State ownership.
Spain.....	9,593	9,593	.....	Same as Portugal.
Denmark.....	2,356	1,132	1,224	
Norway.....	1,932	288	1,644	
Sweden.....	9,056	6,175	2,881	
*Serbia.....	638	.....	638	Mileage considerably increased since 1913; under Austro-Hungarian State control.
*Roumania.....	2,351	133	2,218	Mileage increased since 1913; lines in occupied territory operated as part of the Austrian State lines.
*Greece.....	1,005	1,005	.....	
*Bulgaria.....	1,206	.....	1,206	
European Turkey.....	1,246	1,246	.....	All lines taken over and operated by the State since beginning of war.
Smaller States.....	100	100	.....	
Total.....	216,428	100,317	116,111	

## AMERICA.

*Canada.....	29,468	27,687	1,781	Increased State mileage since 1913.
*United States.....	256,823	256,823	.....	1916 mileage 275,000; approximately 250 miles in Alaska and the Panama Canal Zone are Government owned and operated.
*Newfoundland.....	773	773	.....	
Mexico.....	15,932	3,509	12,423	
Central America.....	2,016	1,655	361	
Greater Antilles.....	3,425	3,275	150	
Lesser Antilles.....	338	338	.....	
Colombia.....	625	515	110	
Venezuela.....	637	569	68	
*British Guiana.....	104	104	.....	
Dutch Guiana.....	375	375	.....	
Ecuador.....	655	655	.....	
Peru.....	1,728	670	1,058	
Bolivia.....	1,511	1,511	.....	
Brazil.....	15,615	8,849	6,766	
Paraguay.....	233	233	.....	
Uruguay.....	1,648	1,648	.....	
Chile.....	3,981	1,988	1,993	
Argentina.....	20,759	17,249	3,510	
Total.....	356,317	328,094	28,223	



*Mileage of private and State railways of the most important countries of the world (mileage figures for 1913)—Continued.*

[Asterisk denotes countries engaged in war.]

## ASIA.

Country.	1913 mileage.			Remarks.
	Total.	Private.	State.	
*Russian Central Asia.....	9,943	3,100	6,843	{ Mileage increased since 1913; larger part of private roads taken over and operated by Government.
*Siberia.....				
*China.....	6,158	6,158	.....	
*Japan, including Korea.....	6,866	1,968	4,898	
*British East Indies.....	24,850	4,362	29,488	
*Ceylon.....	606	606	.....	
Persia.....	33	33	.....	
*Asia Minor, etc.....	3,417	2,500	917	
*Portuguese Indies.....	51	51	.....	
*Malay States.....	862	862	.....	
Dutch Indies.....	1,783	238	1,545	
*Siam.....	706	105	601	
*Cochin China, etc.....	2,310	2,310	.....	
Total.....	67,591	23,298	44,292	

## AFRICA.

*Egypt.....	3,716	790	2,926	
*Algiers and Tunis.....	3,988	2,175	1,813	
*Belgian Congo Colonies.....	868	868		
*South African Union:				
*Cape Colony.....	3,999	548	3,451	
*Natal.....	1,109		1,109	
*Central South Africa.....	3,488	157	3,331	
*Rhodesia.....	2,420	2,420		
COLONIES.				
*Germany:				
*German East Africa.....	896		896	} Largely in British control.
*German Southwest Africa.....	1,315		1,315	
*Togo.....	204		204	
*Kamerun.....	192		192	
*England.....	2,368	1,047	1,321	
*France.....	2,011	2,011		
*Italy.....	96	96		
*Portugal.....	1,015	1,015		
Total.....	27,693	11,129	16,564	

## AUSTRALASIA.

*New Zealand.....	2,906	30	2,876	
*Victoria.....	3,663	25	3,668	
*New South Wales.....	4,120	167	3,963	
*South Australia.....	2,326	234	2,092	
*Queensland.....	4,845	296	4,549	
*Tasmania.....	705	196	509	
West Australia.....	3,449	579	2,870	
*Hawaii, etc.....	88	88	.....	
Total.....	22,136	1,615	20,521	

*Mileage of private and State railways of the most important countries of the world (mileage figures for 1913)—Continued.*

## SUMMARY.

	Total mileage.		State.		Private.	
	1913	Gain.	1913	Gain.	1913	Gain.
Europe.....	216,428	2,256	116,111	1,590	100,317	666
America.....	356,317	9,990	28,223	5,841	328,094	4,149
Asia.....	67,591	1,498	44,293	142	23,298	1,346
Africa.....	27,693	1,002	16,964	613	11,129	389
Australasia.....	22,136	385	20,521	1,448	1,615	11,063
Total.....	690,165	14,206	225,712	9,644	464,453	5,487

<sup>1</sup> Loss.

## SUMMARY FOR COUNTRIES AT WAR.

Total 1913 mileage.....	589,730
Total State mileage.....	189,007
Total private mileage.....	400,723

Leaving out of consideration the privately owned mileage of the United States, it will be noted that 57 per cent of the total 1913 mileage of the countries at war is State owned and controlled. Incidentally it is also significant that of the total railroad mileage of the world (690,165 miles in 1913) 589,730 miles, or 85 per cent, are located in countries at war.

Of the total mileage of the world for 1913 (690,165 miles) private companies owned 464,421 miles, or 67 per cent, and Governments owned 225,744 miles, or 33 per cent. In 1912 the private railways owned 68 per cent. The Government railways gained 1 per cent by increasing their mileage by 9,644 miles, while the mileage of private companies increased only 5,487 miles.

However, an analysis of the statistics given for the various countries shows that this gain by the State railways represented the absorption of existing lines rather than greater activity in railway construction. For example, 4,478 miles of line were added to the Government total in Mexico and 1,002 in Argentina without any increase in the total mileage of the country. In Australasia there was also a gain of 1,448 miles for the Government lines by the absorption of private lines, although the total mileage of the country increased only 385 miles. The privately owned lines, therefore, actually increased their mileage by construction 12,000 miles, of which about 6,500 miles was offset by the acquisition of lines by the Governments.

It will be noted that in respect of length of lines, outside of North and South America, Government ownership greatly predominates, but that the privately owned mileage in the United States, 256,823, greatly exceeds the mileage of all the Government-owned roads in the world. It is somewhat surprising, however, to find that the greatest increase in Government mileage is in North and South America, due to the absorption of private lines in Mexico and Argentina. Even outside of the United States, however, private ownership is greatly predominant in America. Excluding our 256,823 miles, there are in this hemisphere 71,261 miles of private railways, against 28,223 miles

of Government railways. In only two countries in this hemisphere, Mexico and Peru, is Government ownership the predominating policy, and in Peru the roads are operated by companies.

In a majority of the countries of the world also prior to the war private ownership of railways continued to prevail. Of 75 nations and colonies for which statistics are given in this compilation 42 had more private than Government mileage, while 33 have more Government mileage. While in 26 countries the entire railway mileage was privately owned, in only 7 are all of the railways owned by the State. These were Serbia, Bulgaria, Natal, and four German colonies in Africa. In Europe State ownership predominates in only 10 out of 21 countries.

The total railway capitalization of the world in 1913, as reported by this publication, was \$60,222,056,784. In this, however, is included \$19,000,000,000 as the capital of the railways of the United States, which erroneously includes all the duplications due to intercorporate ownership. The Interstate Commerce Commission figure for 1913 is \$15,330,131,446. It must be remembered, however, that the Interstate Commerce Commission lists only the roads reporting to it, and that there is considerable mileage not included in its statistics. With this correction the world's total in 1913 stood at \$56,350,804,230, an increase over the preceding year of \$1,848,250,566.

#### THE RAILWAY SITUATION IN CANADA.

The situation in Canada deserves the close study of this association at this time, not only because Canada is our next-door neighbor but because its transportation problems in the main largely resemble our own. Canada has had Government owned and operated railways for some time. On June 30, 1916, the total railroad mileage of Canada was approximately 40,000 miles, about 4,000 of which were in the hands of the Dominion Government.

As in our country, so also in Canada, the Government has made large land grants to transcontinental railways, and in addition the Canadian Government found it necessary to provide assistance by loan to the Grand Trunk Pacific Railway and to the Canadian Northern Railway. The situation became critical in 1916, and the Canadian prime minister requested of the Canadian Government that the conditions and necessities of railway development in Canada "should be considered in a comprehensive way, and that a thorough investigation should be made by a board of the highest experience and ability." In October, 1916, there was appointed a "Royal commission to inquire into the railways and transportation in Canada." And the commission was asked to investigate into the following matters:

1. The general problem of transportation in Canada.
2. The status of each of the three transcontinental railway systems: that is to say, the Canadian Pacific Railway system, the Grand Trunk Railway system (including the Grand Trunk Pacific Railway and the Grand Trunk Railway and their several branches), and the Canadian Northern Railway system, having special reference to the following considerations:
  - (a) The territories served by each system and the service which it is capable of performing in the general scheme of transportation.
  - (b) Physical conditions, equipment, and capacity for handling business.
  - (c) Methods of operation.



(d) Branch lines, feeders, and connections in Canada.

(e) Connections in the United States.

(f) Steamship connections on both oceans.

(g) Capitalization, fixed charges, and net earnings, having regard to (1) present conditions, and (2) probable future development with increase of population.

3. The reorganization of any of said railway systems, or the acquisition thereof by the State; and in the latter case the most effective system of operation, whether in connection with the intercolonial railway or otherwise.

4. Generally speaking, all matters which the members of the board may consider pertinent or relevant to the general scope of the inquiry.

The report of this commission has since been published. It deals ably and exhaustively with many phases of public and private ownership of rail carriers and is of special interest to the United States, because issues had to be considered by the commission that usually are left outside the scope of such an inquiry. We have reference to the questions of valuation, public donations, land grants, additional investment required, and other matters.

The commission, which consisted of A. H. Smith, president of the New York Central; Sir Henry L. Drayton, chief commissioner of the Canadian Board of Railway Commissioners; and W. M. Ackworth, of England, is not unanimous in its findings and recommendations. Mr. Smith, the American commissioner, filed a minority report. In their letter of transmittal to the governor in council the three commissioners says:

We have taken the situation as it is and find ourselves in agreement as to the necessity for constructive aid to bring the railways through the present crisis. We differ, however, as to the extent and method of Government help desirable and as to the increase in character of Government liability and interest now and for the future. It has therefore been found necessary to submit a report of the two concurring commissioners, with a brief statement of the minority recommendation.

If the National Association of Railway Commissioners, through a special committee or otherwise, is to continue with the investigations into the subject of this report, the findings of this Canadian commission must receive very careful consideration. We should like to examine these findings now, but are of the opinion that such an undertaking would transcend the scope of this report. The commission's conclusions only will be pointed out.

The majority report recommends in effect that practically all the railways of Canada, except the Canadian Pacific and the American lines, shall be turned over to a new corporation (the "Dominion Railway Co."), to be managed by a board of trustees appointed by the Government. This board is to be permanent and self-perpetuating. The Government is to assume responsibility to the Dominion Railway Co. for the interest on the existing securities of the transferred companies. The whole of the Dominion railways is to be operated by the trustees as one united system, on a commercial basis, under their own political, undisturbed management, on account of and for the benefit of the people of Canada. Recommendations of terms under which the Government shall take over the various systems are made, and the estimate of the annual liability of the Government to meet unearned interest during the first years under the new scheme is put at about \$12,500,000 per annum. The majority report finds against public ownership, and recommendation No. 22 reads: "We therefore reject the idea of direct Government ownership and opera-

tion." In the minority report, however, Mr. Smith has this to say on the majority's recommendation No. 22:

My friends seek to avoid Government ownership and operation, in fact condemn it as inadvisable, but propose a plan which contains so many elements of danger in the direction sought to be avoided that I am unable to join them. Their plan would add about a billion dollars to the direct debt of Canada. The interest on this is about forty millions, adding very largely to Government expenses. Judging from the experience Canada has had with its Government railways, it is fair to assume that this would remain a permanent burden.

Mr. Smith's minority report also rejects Government ownership and operation. And yet he, too, in his general summing up of his proposed remedies, includes these recommendations:

Let the Government operate the connections or procure their operation by private companies—

(referring to the connections between the Grand Trunk and the Canadian Northern). He also recommends the creation of a board of trustees consisting of two Government officials and three private assistants to act for the Government in matters of leases, rentals, and new construction. He further recommends that "either the Government or the lessee should build a connecting line of about 30 miles near Lake Ontario, to protect the better working of the two lines." (The lines referred to are the Canadian Northern and the Grand Trunk.) "These connecting lines," Mr. Smith says, "'bridges,' as they have been called, exist, it seems to me, as a result of that public policy which has been discussed at some length. The Government may well afford to take them over and maintain them as necessary parts of the public investment in the country's development. They are not of sufficient importance to bring about those dangers inherent in Government operation of this kind on a large scale, and holding them will not endanger private enterprise."

Further on in his report Mr. Smith proposes this alternative:

If for any reason it should prove inexpedient to carry out the foregoing suggestions, and if the Government should find it wise or necessary to possess itself of, or to hold, any considerable part of the railway properties, I should recommend as an alternative plan the formation of a private company to take over other operations of those properties, either as a whole or in groups. Even where a road does not earn its fixed charges, the Government could profit in the long run by making the terms of an operating lease sufficiently attractive to induce private enterprise to undertake its management. The terms of the contracts would naturally depend upon the extent of the property and the prospect of earnings, but they could be so drawn as to prove attractive to private capital and at the same time relieve the Government of the expense and embarrassment of Government operation.

And after calling attention to the "desperate need of equipment" of the Canadian lines, he states:

I would therefore recommend that the Government undertake at once to provide an ample supply of freight cars and locomotives against immediate and imperative needs. These cars and engines may be had, if desired, under trust agreements. It will be a simple matter to turn these cars and engines over to the operating companies under lease or contract of purchase, which may be exercised when conditions are more nearly normal.

It is a fact, therefore, that while both the majority and the minority members of the Canadian commission reject Government ownership and operation they, nevertheless unanimously recommend a certain measure of Government operation and a certain measure of public ownership. They agree that the Government should at

least own, and if necessary operate, such lines as are clearly unprofitable and should provide the necessary capital for equipment, for instance, where private capital can not be induced to remedy the obvious need. The commission believes it sees clearly the many dangers of public ownership, but is, nevertheless, obliged to go in that direction.

We have stated that in this report we will neither advocate nor condemn public or private ownership and operation of utilities and will merely examine important facts. With this statement in mind, it is significant that even a commission theoretically opposed to public ownership, as the Canadian commission was, found no other solution than larger control and larger responsibility on the part of the State.

#### THE SITUATION AT HOME.

The most important public utilities in the United States, as elsewhere, are the railroads. There are very few thinking men left in the country who will insist that regulation in its present form can adequately deal with our railroad problem. The inadequacy of Federal regulation in the matter of securities' control is a yearly recurring topic in the reports of the Interstate Commerce Commission as in the reports of this association; Federal incorporation for interstate roads is quite uniformly recognized as necessary, and the railroads themselves have come to this conclusion.

That there is conflict and duplication between Federal and State commissions can not be denied. That regulation is often made ineffective by the conflict and onerous by the duplication is clear. Whether or not the period of railroad regulation is merely a necessary step in the evolution of the public utility from private to public control and ownership the fact is that our railroads to-day have gone beyond regulation in some of their very essentials. Here, too, the war has revealed the weak spots and pointed out the remedies that during peace it would have taken us a long time to find.

The Newlands committee was appointed by Congress a year ago "to investigate the subject of the Government control and regulation of interstate and foreign transportation, the efficiency of existing system in protecting the rights of shippers and carriers and in promoting the public interest, the incorporation or control of the incorporation of carriers, and all proposed changes of organization of the Interstate Commerce Commission and the act to regulate commerce, also the subject of Government ownership of all public utilities, such as telegraph, wireless, cable, telephone, express companies, and roads engaged in interstate and foreign commerce, and report as to the wisdom or feasibility of Government ownership of such utilities and as to the comparative worth and efficiency of Government regulation and control as compared with Government ownership and operation."

That committee also found its duty a huge one, and it has been unable thus far to complete its investigation. We can not expect that it will reach any conclusions or make any recommendations within a reasonable time.

The Federal valuation of railroads in the United States by the Interstate Commerce Commission, which is to be the cornerstone upon which the physical facts of the railroad question shall hence-



forth stand secure from wild assumptions is also far from being completed. To anyone acquainted with the magnitude of the task this is not surprising, and the valuation, in our opinion, should go on.

But while these preliminaries consume the months and the years new needs arise, new issues develop and must be met. It is our conclusion that the trend of public-utility development throughout the world is in the direction of greater Government control both as to ownership and operation. The railroads of the United States are moving this way, and the war has given impetus to this movement.

At a meeting of the presidents of the railroads in the United States in Washington, D. C., on April 5, 1917, five days after the declaration of war against Germany by the United States, the following resolution was adopted:

*Resolved*, That the railroads of the United States, acting through their chief executive officers here and now assembled, and stirred by a high sense of their opportunity to be of the greatest service to their country in the present national crisis, do hereby pledge themselves, with the Government of the United States, with the governments of the several States, and with one another, that during the present war they will coordinate their operations in a continental railway system merging during such period all their merely individual and competitive activities in the effort to produce a maximum of national transportation efficiency. To this end they hereby agree to create an organization which shall have general authority to formulate in detail and from time to time a policy of operation of all or any of the railways, which policy, when and as announced by such temporary organization, shall be accepted and earnestly made effective by the several managements of the individual railroad companies here represented.

The fine sense of duty on the part of the leaders of the country's transportation systems that prompted this resolution deserves our respect and praise. We believe, moreover, that this resolution must also be considered as a most important document in American railroad history. The pledge of these men that they will operate their properties as a "continental railway system," that they are merging during the war "all their merely individual and competitive activities in the effort to produce a maximum of national transportation efficiency," opens a wide outlook. It must be remembered that it is the executive heads of the railroads who thus realize that the highest national transportation efficiency can be given only through the united operation of a continental railway system. During the period of the war they say. But why should we not have a maximum of national transportation efficiency in peace as well as in war?

A complete national railway system means, inevitably, complete national railway control, for the country realizes more than ever that its railways are the arteries of its economic life and that their ultimate direction can not be left in the hands of private owners, however high a caliber these owners may represent as men and citizens.

This committee believes that it should report to the national association its interpretation of the railroads' actions toward the realization of the ideal expressed in this resolution. Lest our statements be misconstrued, we wish to reiterate that there is not the slightest intention of criticism on our part and that we desire to be merely recorders of facts, endeavoring to read correctly their significance.

The American Railway Association created a special committee on national defense, same to be known as "The railroad war board,"

with Fairfax Harrison, president Southern Railway System; Howard Elliott, president New York, New Haven & Hartford Railroad; Hale Holden, president Chicago, Burlington & Quincy Railroad; Julius Kruttschnitt, chairman executive committee Southern Pacific Co.; and Samuel Rea, president Pennsylvania Railroad System, as members of the executive committee. An Official Public Bulletin is published by the committee and the course of developments can readily be traced from this publication. We shall quote some of the most important recommendations and instructions of this committee and shall call attention to some of its principal accomplishments.

In an appeal to the railroads for greater efficiency the committee, among other things, says:

That a careful study has shown that by heavier loading, by expediting the movement even more than is being done at present, and by speeding up repairs, it is possible that the equivalent to 779,000 additional freight cars might be thrown into immediate use. This would increase the car supply more than 30 per cent.

By reducing the number of locomotives under repairs and by increasing locomotive mileage, it may be possible to keep in service 16,625 more locomotives than are in use to-day on our railroads. This would be equal to an increase of more than 25 per cent in the number of locomotives available for service.

It urges that motor power must be conserved, that cars must be repaired, and other savings effected, and says:

About 15 per cent of locomotives are ordinarily under repair; if this percentage were reduced to 10, which figure has been reached by some roads, it would mean an addition of 3,325 locomotives to the number in service.

The average miles run per day by a locomotive is 75. If by quick turning at terminals, double crewing or pooling, improving the quality of water which may enable a locomotive to double a division without loss of fuel and time involved in cooling down, and with less boiler repairs, this mileage can be increased to 90, which is now reached on some roads; it is equivalent to adding 13,300 to the locomotive equipment.

There are 2,350 railroad-owned freight cars in the United States and about 225,000 privately owned freight cars, a total of 2,575,000, of which about 6.5 per cent, or 167,000, are normally under repair; close watching and prompt repair work can reduce this percentage to 4, which would release 64,000 cars for active service.

The average miles run per freight car per day is 25. By increasing this to about 30 miles, or 20 per cent, is equivalent to adding 515,000 freight cars, or 20 per cent, to existing equipment.

Increase carloads, which have not kept pace with increase of car capacity, notably in the case of box cars, as shown below:

Average capacity of all cars.....	tons.....	30.7
Average load per car, all cars, revenue freight.....	do.....	15.5
Average load per car, all cars (including company freight).....	do.....	17.0
Per cent of capacity utilized.....		43

In the following statement the committee has taken a position relative to the proposed additions to the freight-car equipment through National Government aid:

If the Government shall elect to invest the capital necessary for the acquisition of 50,000 to 75,000 cars, the railroads will be glad to make use of them on substantially the same basis as other privately owned cars are used, namely, a fair payment for mileage made by such cars, the railroads to pay current repairs and the Government to pay owners' repairs under Master Car Builders' rules.

The average addition of freight equipment on American railroads has been at least 150,000 cars per annum. Under existing high prices, and with the inability of car builders to get material, it is unlikely that American railroads will be able to order and secure as many as 150,000 cars during the next year, although they have about 100,000 cars still undelivered on back orders.

Under these conditions the railroads will welcome any addition to their stock of equipment, assuming the standards to be safe and adequate, which would tend to make up the deficiency in their own orders.

It is perhaps expedient that an option should be given to the railroads to acquire these cars at a fair price to be agreed upon hereafter in the proportion of the amount of equipment owned by each railroad to the entire freight equipment of the country.

In expressing the above opinion, the railroads' war board has not discussed the merits of the question of whether the largest effective aid in the interest of the public can be given to the railroads by providing additional cars or by providing additional locomotives and terminal facilities.

In July of this year the committee undertook the distribution of freight cars to points of greatest need, and reported as follows:

To help those producing communities and shippers and those railroads which by reason of their economic situation are suffering from a shortage of freight cars, the commission on car service has ordered those railroads on which cars accumulate in congested territories to turn over to roads on which shortage exists cars to the number of 34,245. These cars are being sent in trainload lots direct to the points where they are most needed. Reports to-day show that more than 19,000 of these cars have already been delivered.

The number of cars so transferred in the shortest possible time, and without load, had increased by July 31 to 68,814, and by the end of August exceeded the 100,000 mark.

The State commissions were repeatedly addressed by the committee. Their help was asked to secure heavier loading of cars, and in a letter written in July, 1917, to the State public service commissions and to the State, county, and other municipal authorities, the earnest plea was made—

that during the war the railroads be required by the public authorities to make improvements and carry out projects involving the expenditure of money and labor only when they are absolutely essential for war purposes or public safety. The prevailing high interest rate on money, the difficulty of raising money in competition with the tax free issues of the Government, the excessive cost of supplies and labor, the delay in obtaining material, the possible blockade of traffic, and the diversion of labor all contribute to make nonessential construction undesirable during the war.

The committee considers that the erection of new stations and elimination of grade crossings are among the nonessential improvements which should be deferred at this time.

The express transportation situation, the coal transportation problem, the food supply, the prompt movement of Government war supplies, the grain movement, the troop movement—all these matters were made the subject of special orders and recommendations by the committee, which, in all cases, were promptly obeyed by the carriers. The action of the Railroads War Board is undoubtedly effective, and therefore desirable. It is also superior, in fact if not in law, to any orders of the State or interstate commissions.

There is no reason to believe that the new system, once its need and efficiency are established, will be abolished, and if it is an improvement over existing instrumentalities it should not be abolished.

Another important development is the discontinuance, upon recommendation of the board, of a large number of passenger trains on individual lines. This train service was considered less essential than the resulting saving in man power, fuel, equipment, and track and terminal facilities. Here again the recommendations of the board were, in effect, superior to the rules and regulations of the commissions. The committee's action, we again believe, was wise



and patriotic: it was the only available agency capable of dealing with the urgent needs of the situation. What to our committee is the significance of these facts?

We believe that we are now witnessing the effective formulation of a comprehensive national railway policy.

In the United States a national transportation policy embracing an intelligent plan of railroad construction, efficient nation-wide operation, the elements of financing, of rate making, of traffic development, of thoughtful adjustment of water and rail transportation, and of other equally fundamental policies, has heretofore been an impossibility. We have come to uniform accounting, but beyond that it seems we have been unable to go. The times have forced a change and the new national railway policy is rapidly assuming its first shape without Government direction and with almost no Government cooperation.

The direction of this policy is also quite distinctly defined—it is toward the elimination of what little remaining competition there was between carriers; toward centralization; toward uniform standards of construction and operation; and, most important of all, toward higher rates. In spite of the great savings already effected by the greater efficiency of the new system, and in spite of the much greater savings still possible, higher rates appear inevitable unless the Government becomes the directing force and, from national considerations, takes its controlling part in the shaping of this new national railway policy.

In the countries of Europe, whose railroad status we have merely touched upon in this report, military considerations have been the determining factor in the railway policies. It has always been pointed out by opponents of Government ownership in the United States and in Canada that military considerations are no factors in the railroad question in North America. This was perhaps true prior to April 6, 1917, but it is true no longer. In the future the National Government will keep constantly in mind the railroads' place as an ill-important instrumentality for the country's defense; and this is another reason why the movement toward complete national control will continue.

The National Association of Railway Commissioners, in our opinion, has no more important duty to perform at this time than to give its best thoughts to these new developments. Only two courses are open to the men who must deal with these questions. We can let things drift and the answer will work itself out finally without us. This is the easiest and least intelligent course; the one we will not take. Or we can give our best thoughts and efforts to the problem and then further or oppose what seems to us the sound or unsound trend of the time. This, we take it, is our task.

We have, therefore, concluded that the National Association should continue the study of these questions through the instrumentality of a permanent committee, and it has seemed to us that at this time our committee can render a service to the National Association by an attempt to give an outline of the scope of the permanent committee's duties and by a recommendation indicating along what lines further investigation should be made.

## II. THE SCOPE OF THE PROBLEM.

We have made a careful study of the bibliography of our subject. That bibliography is forbiddingly large. The catalogues alone of books and references dealing with the subject of public ownership and operation and private ownership and operation of public utilities here and abroad constitute a small library. We found it a burdensome task to go through the various lists compiled by the library of commerce and by the bureau of railway economies and distinguish between the useful and the obsolete and the important and unimportant. We believe we have assisted the national association and other students of our problem by compiling a select bibliography which, instead of containing several thousand references, contains less than 100, but will, nevertheless, we believe, include an exhaustive exhibition of the best thought of all sides of the subject. This "select list of publications relating to public ownership and operation and private ownership and operation of public utilities" will be printed as an appendix to this report.

We have stated that we conceive it one of the functions of this committee that it should undertake to state along what lines further investigations and studies should be made. Our thought is that the committee, if it is made permanent by the national association, should begin its study with the basic principles involved rather than with a few of the thousand aspects of the question. It should give a résumé of the best and latest thought on these basic principles and should marshal the important underlying facts which are often omitted in both the pro and anti public ownership camps. Comparative statistics and critical analysis of the merits and demerits of public as compared with private ownership and operation would, we are convinced, be of no real and permanent value until the fundamentals are thoroughly understood.

Our ideas are that a permanent committee should organize itself for a division of the work, and we suggest to the national association an outline of study along these lines:

- I. Fundamental, economic, and political aspects of public utility service.
  - (a) Under private ownership and operation.
  - (b) Under public ownership and operation.
- II. The public utility problem abroad.
- III. The public utility problem in the United States as distinguished from the problem abroad.
- IV. Public utility development in the United States.
  - (a) Privately owned public utilities—unregulated.
  - (b) Privately owned public utilities—regulated.
  - (c) Publicly owned public utilities.
  - (d) Publicly owned and operated public utilities.
- V. Various forms of and distinction between private and public ownership and private and public operation.
- VI. Municipal, district, State, and National ownership and operation of various classes of public utilities.
- VII. Fundamental economic considerations with reference to various classes of public utilities.
  - (a) Transportation utilities (steam and electric street railroads, vessels, jitneys, etc., with special reference to interstate railroads).
  - (b) Communication utilities (telephone, telegraph, wireless, etc.).
  - (c) Water utilities (domestic supply, irrigation supply, etc.).
  - (d) Power utilities (motor, steam, gas, electricity, etc.).
  - (e) Light and heat utilities (electricity, gas, oil, etc.).
  - (f) Other utilities (warehouses, wharves, etc.).

VIII. Comparative results of private and public ownership and operation—National, State, district, municipal, and distinction between various classes of utilities.

IX. Acute present-day public utility and regulatory problems.

- (a) Cost.
- (b) Value.
- (c) Capitalization.
- (d) Service.
- (e) Rates.
- (f) Risk.
- (g) Profit.
- (h) Employees and wages.
- (i) Future development.

It is in connection with Divisions VIII and IV that the controversy is bitter between advocates and opponents of public ownership, and we believe that much of the confusion and the apparent discrepancy of results reached from the same data will be avoided if the study is formulated along the lines here given and if the standards by which the desirability or the undesirability of public ownership is to be measured are clearly understood.

How futile is a mere use of statistics in different hands became clear to us from our study of a discussion which was carried on in the columns of the *Railway Age Gazette* from July to December, 1916. Mr. S. O. Dunn, editor of this publication, who has written several books on the subject of railway transportation, in an article in the *Railway Age Gazette* in July of last year, stated that the Government-owned lines of Canada were a failure. He used statistics of the Inter-Colonial and other Canadian railways and went into the subject exhaustively. Later he was answered by Mr. J. L. Paine, comptroller of statistics, department of railways and canals, of Canada, who claims to be neutral on the subject of government ownership by virtue of his official position, and the results found by Mr. Dunn were questioned. The discussion was continued for about six months, and was carried on an exceedingly high plane. Both Mr. Dunn and Mr. Paine gave each other credit for studying the available statistics thoroughly, but they did not agree, and the articles finally closed without their being in agreement as to what the statistics meant. One of Mr. Paine's arguments was that a financial or statistical analysis should not lead to the conclusion that the railways of Canada were not a success because they were built for political rather than economic reasons. But even eliminating this portion of the discussion, the fact remains that the question as to whether or not the Government-owned railroads of Canada are operated as efficiently and as free from undue outside influence as the privately owned railroads is as far from settlement as it was before any of these articles were written.

We are citing this instance in support of our conviction that without agreement as to the fundamental relations between the public utilities and the people the available public utility statistics of the world can not answer the question whether government ownership is or is not successful.

The committee should first formulate the standards by which, in its opinion, success or failure of public ownership and operation is to be measured. One who thinks the function of government is to do all things which it is possible for a government to do, would have an entirely different set of standards from one who felt that govern-



ment should infringe as little as possible on the liberty and freedom of action of the individual and should do only those things which individuals, or individuals acting collectively as corporations, are unable to do.

Because Germany operates its railroads to the satisfaction of the German people, it need not necessarily follow that the Government of the United States could also in the long run better satisfy its people by operating the railroads in the United States. The German railways were built and operated with their use in war always in view. Italy and Switzerland took over their railroads because their own capitalists were unable or unwilling to continue to finance them, and the Governments of these countries considered it undesirable to have the instruments of transportation under the control of foreign capital. The Government lines of Canada were built to bring the Provinces of the Dominion in closer contact with each other, and although, as a whole, they are undeniably a financial failure from the point of view of private gain, they must be considered as successful if they serve the purpose for which they were built. The common argument that because they fail to pay their own way and are a financial burden to the State they make an excellent illustration of the failure of government ownership is manifestly unsound. The railways of Germany, Italy, Switzerland, or France can not on the basis of gross or net earning statistics be used as an example either one way or another, simply because conditions in these countries are not the same as in the United States. We have no faith in analyses and comparisons of statistics alone.

Even if the inquiry were narrowed down to a consideration of public service performed by the government-owned railroads, as against those owned privately, that is to say, the service and rates alone, without examining the relationship which the railroads bear to the government, no comparisons would be possible. The operating conditions are the same in no two countries, and the service in each country is dissimilar to that in every other country. Before a comparison can be made, even of rates, the frequency of service, its convenience, its extent, and all that it includes, must be known. Rates on any one commodity or any class of commodities can not be compared, because one class of rates in one country may be made low or high, when in another country the governing conditions are reversed. Rates as a whole can not be compared on any rational basis, as, for instance, the cost per ton-mile, unless the tonnage in each separate class of commodity is also considered. The railroads in one country may secure their returns on a small profit from a bulky commodity like coal, while in another they may carry bulky freight almost without profit and secure their returns from the higher class commodities. Then, again, freight rates include in some countries much more service than they do in others; in England they include drayage similar to our express service on certain commodities. In the United States they include the use of cars for storage purposes for given periods; they include a certain liability for the safe delivery of freight, similar to insurance, and in many other ways perform services which may or may not enter into the consideration of the rate in other countries. Similar differences in passenger service make it impossible to compare passenger rates in any two countries. In this country, it is well known, passenger rates are not

large enough to sustain the passenger service; and this makes an additional reason why rate comparisons are to no purpose when made between other railroads and our own.

Again, if Government railroads are operated at a loss it is necessary to find how the deficit is made up and by whom it is borne; and before comparisons are available it should, when discovered, be allocated to the various rates after they have been modified by the other factors. Obviously, if the railroads of one country pay taxes to the government and in another country the people are taxed to support the railroads, the statistics affecting the railroads alone are worthless for comparative purposes. The disposition of the taxes must be examined, both those which are received from the railroads, in the first case, and those which help to support the railroads, in the second, so that finally the figures used for comparison can be reduced, first to terms of money and then to hours of labor. It can then be shown that men working under the same conditions in different countries are obliged to spend a certain number of hours a year to support the railroads.

This would be a comparison of real value, although objections could be made to it aside from the magnitude of the work involved. For instance, the men of different countries do not work under similar conditions, and if an attempt were made to consider comparatively similar conditions it could be said that the natural advantages or disadvantages of one country, as the distance of the coal mines from the points of consumption, the climate, the fertility of the soil, etc., modify the cost of railroad service as directly as they do the other conditions under which the inhabitants of a country live.

We believe that in the United States the final decision on the railroad public ownership argument will be made by the people not on any conclusion arrived from considerations of gross earnings or net earnings. The Nation's policy must rest on much more important fundamentals.

We are not now developing our railway system to the best advantage of the Nation. The solution of our terminal problem waits, and not even the necessary rolling stock is now being provided. There is no doubt that additional billions of capital is necessary; and since regulation can not permit the raise of railroad rates to a point where the necessary capital will be provided from net earnings, the necessary funds must come from investors or from the Government.

One of the most important questions this association will have to study is whether or not the Government can better provide this new capital than can private enterprise.

Properly planned future railway expansion can only come about through Government direction. Is there any reason to fear that under Government ownership the national debt might rise too high? Would that debt, if offset by equivalent productive values, be an asset or a liability? What will be the essential difference, as far as the people are concerned, between fair profits and consequently high rates being paid to private owners and equally high rates being paid to the Government?

What is the correct answer to the charge that Government operation is more wasteful than private operation; and if the charge is true, will it be a fact that the increased cost of operation under Government control will eat up what is saved through the people's

ability to borrow capital at a lower rate? These questions require fair answers.

And then there must be considered the vital problem of labor and wages under Government ownership and operation. On this last question we realize that there is even now no alternative and that the time is here when the Government must assume a large share of the responsibility for wage fixing in regulated utilities.

While this report is being written there appears in the press an interview of President Ripley, of the Atchison, Topeka & Santa Fe, and a quotation from this interview will be a fitting conclusion.

Mr. Ripley stated:

I have never ceased to believe that Government ownership of the railroads is not merely a possibility but a high probability. The way matters are going the Government must step in and take charge, unless meanwhile some other means of saving the railroads is found.

#### CONCLUSION AND RECOMMENDATION.

We have already expressed our conclusion that the trend of our times unmistakably is in the direction of complete public control and of ownership and operation of public utilities, especially of the means of communication such as railroad, telephone, and telegraph.

We believe that one of the urgent duties of the National Association of Railway Commissioners is a continued careful study of this problem.

We have only one recommendation to make at this time, namely, that the national association appoint a permanent committee to deal with this question; to represent the association, if necessary, before governmental or other bodies, if prior to the end of the coming year important action should be taken by the Government in this direction, and to make a report to the national association at its next meeting.

EDWIN O. EDGERTON,  
*Chairman.*

JOHN GUIHER,  
SHELBY TAYLOR.

N. B.—Authorization to sign names of other committeemen had not been received when this report went to press.

#### AFTER RECESS.

(The hearings were resumed at 2.30 o'clock p. m., pursuant to the taking of recess.)

The VICE CHAIRMAN. The committee will come to order. Is Chairman Jones, of the Arizona Corporation Commission, present?

Mr. JONES. Yes, sir.

The VICE CHAIRMAN. Take the stand, please, and give the stenographer your address and official title.

#### STATEMENT OF F. A. JONES, CHAIRMAN ARIZONA CORPORATION COMMISSION.

Mr. JONES. My name is F. A. Jones, and I am chairman of the Corporation Commission of Arizona; my residence is Phoenix.

The VICE CHAIRMAN. Very well, make such statement as you desire, sir, in your own way.



Mr. JONES. Gentlemen, I am here somewhat in response to a suggestion from Senator Bristow, of Kansas, received just before I left. I think possibly the suggestion was due to the fact that I have been chairman of an Association of Intermountain States, organized several years ago for the purpose, particularly, of following up the fourth section matter as related to the intermountain country. Since coming here and hearing Mr. Thelen's statement—having read carefully his statement made in Washington—I feel that I might shorten my testimony or statement by indorsing his in toto.

As I read Mr. Thelen's statement made in Washington, it showed a great deal of study and thought, and was not only fair but very comprehensive and complete. There are some features of the problems under consideration which confront the country which I do not think he discussed. One of them is what we now term the intermountain-rate situation. My statement is based upon about 30 years' experience, gained largely in being connected with transportation lines in a traffic capacity, for the last 10 years equally divided as State commissioner and as representative of commercial organizations seeking to bring about a readjustment of the situation that confronted them in the intermountain district in relation to the fourth section.

Senator CUMMINS. Will you make that a little more definite? I suppose we all understand that, but the record might be made a little clearer if you would state what the fourth section is. You mean the fourth section of the interstate-commerce law, which relates to the long and short haul rates?

Mr. JONES. Yes, sir; I first became intimately connected with those problems 10 years ago, when in a measure Spokane and Nevada and Arizona had filed complaints attacking the intermediate rate situation. Ten years have elapsed and we have had no definite decision. Orders have been entered and suspended, and we are to-day practically where we were 10 years ago in so far as the rate situation is concerned. I am not saying that in a spirit of criticism against the Interstate Commerce Commission, but merely stating it as a fact.

In those days, when that case was first presented to the Interstate Commerce Commission, every rate through our section in Arizona was higher by the addition of the local rate from the nearest terminal point back to the point, resulting in our rates being in some instances 300 per cent higher for a 500-mile shorter haul than to the terminal points. In the first presentation of that case that condition prevailed as to rates on all commodities, perishable and non-perishable, whether subject to water competition or not. The railroads in those days attempted to defend that situation just as vigorously as they are now defending a modified system of higher intermountain rates. They abandoned the proposition that all commodities should have that rate, and through later adjustments have given the intermediate sections rates on perishable and nonseagoing commodities as low and in some instances lower than the terminal cities.

Now, that brings the situation up to a solution of their difficulties. We had hoped that when Congress amended the fourth section of the act, permitting the commission, in its discretion, to permit carriers to charge higher rates to intermediate points than to terminals,

we would have some solution of that, based upon that principle. Since we have had no solution and no decision, we have almost come to the conclusion—and I am speaking officially for our commission and the Intermountain States—that the solution of that situation is a rigid long and short haul law, and that goes to the question I have heard a member of this committee ask as to the relation of rates that may have been due to the development of water transportation.

The transcontinental carriers have in the past controlled the rate situation to the coast, either through the ownership or partial ownership of boat lines or by making unduly low rates and driving independent boat lines off of the sea. The records of the Interstate Commerce Commission are complete in that respect, so that it seems to me that if the country wants to see water transportation developed that an application of the long-and-short-haul principle would go far in that direction.

Now, if I may, I want to be permitted to say a few words with respect to the State and interstate regulation where it apparently overlaps and has been brought into conflict. I am somewhat familiar with the Shreveport case—that is, my familiarity goes through a careful reading of the opinion of the commission and of the court in that case—and that has always appeared to me to be a case deserving the consideration of the Interstate Commerce Commission, but growing out of that there has been brought about by, I might say, the collusion of the carriers a condition where State rates have been adopted unfairly and unjustly, and the records of the Interstate Commerce Commission will likewise bear that out.

I am in favor of State regulation, but my mind is open on that subject. It seems to me, gentlemen, that it would be a physical impossibility for a Federal commission to do what the State commissions are now doing. Ninety per cent of our work, I think, is what we term informal, where a shipper or cowman or farmer or merchant comes to us informally and explains a condition where he would be entirely unable to present his case to the Federal Government on account of the expense and lack of knowledge of procedure. Those are disposed of, and usually we find no opposition on the part of the carriers to meet us and dispose of them informally. My statement that the Interstate Commerce Commission could not well handle that work is based on an experience I had in Arizona in handling the traffic of a commercial organization under Territorial days. While we were a Territory our intraterritorial affairs were handled subject to the Interstate Commerce Commission, as you know. In 1910 an association complained of certain local rates, and our case was presented, and we believed the case was made. Up to this day there has been no decision rendered upon that case. Why it has not been rendered we have not been informed, but the facts are there. Of course, the case is unreported, but these cases can be identified on the records of the commission. The case was continued along in a way until Commissioner Lane got on the commission, and I personally took the matter up with him, and at that time, after five years, it appeared we were going to be a State pretty soon, and Commissioner Lane said: "With those local matters out there your State can better deal with them, and I think we had better pass the matter up until your State commission is

organized and gets into the cases." The matter was left in that shape.

I have just been advised that Judge Bartine, of the Nevada commission, will be here Monday, and I am going to assume that before your hearings are closed you will have a very full exposition of the long-and-short-haul situation as related to the Intermountain States. There are representatives here from Utah, and I think Utah represents Idaho, and I will not dwell upon that subject. I think Judge Bartine is probably more able to present it than I am.

I do not think of anything else that I care to present, gentlemen.

Mr. ESCH. Under the original fourth section, prior to the amendment of 1910, the language inserted in that section was "Under substantially similar circumstances and conditions." Those words were omitted in the amendment of 1910.

Mr. JONES. Yes, sir.

Mr. ESCH. In your opinion, was that amendment wise or unwise?

Mr. JONES. In my opinion that amendment was wise, because the construction the courts have placed upon "Under similar circumstances and conditions" was so broad that there could be no similar circumstances and conditions.

Mr. ESCH. In other words, through the courts the fourth section was rendered nugatory?

Mr. JONES. Yes, sir; absolutely.

Mr. ESCH. So Congress eliminated those words in the amendment of 1910 in order to give vitality to the section. Do you concede the justice of the commission permitting lower rates—transcontinental rates—to your Pacific seaboard than to the intermountain section?

Mr. JONES. I think under present conditions that it is entirely unjustified.

Mr. ESCH. Now, why? Go into that.

Mr. JONES. In the first place, the railroads can not now take care of the business offered them, and in that connection, if I may be permitted—

Mr. ESCH. Of course, I do not want you to consider this wholly under war conditions, you understand. Under present conditions the roads are congested, it is true, but suppose there were no war conditions. What would be your view?

Mr. JONES. My view is that the fourth section could well be rigid with respect to the intermountain traffic. Take a representative point, if you please, in the intermountain district. Take Reno, Nev., or Salt Lake City, farther east, or Phoenix, and consider that the haulage from that point to the terminals is over mountains and deserts and ranges from 500 to 1,000 miles, it is my idea that any rate that would be compensatory to the terminal, it would appear to anyone would be amply compensatory to the intermediate point. Now, there may be conditions arise where the abrogation of the fourth section, or a modification of that, would be justified. That would be possible where two lines or carriers serve the same point, one having a circuitous line and the other a direct line and the circuitous line wanting to participate in that traffic. That presents to my mind a different situation.

Mr. ESCH. How tense is the competition just now?



Mr. JONES. The commission found, and the facts are, that there is no water competition now. There has not been any water competition for possibly two years, and the testimony of the larger water carriers was in substance to the effect that when it was it was their experience that they then had, notwithstanding the carriage through the canal, that the railroads would probably never have been confronted with the low scale of rates they first made. It seems to me that the railroads are placing themselves unnecessarily in a very inconsistent position—the transcontinental carriers—when they go to the Federal commission or State commissions and ask for increased revenue to-day and for two years they have been sacrificing millions of dollars of revenue on intermountain and terminal rates that they claim are subnormal, unreasonably low, for no good reason that has ever been stated. There is a big slack there that can be taken up in the way of revenue, and discriminatory rates, being perpetuated against the interior could be eliminated to the great advantage of the interior.

Mr. ESCH. Is the Pacific Mail entirely separated from the Southern Pacific?

Mr. JONES. I understand it is.

Mr. ESCH. Of course, a great deal of the Pacific shipping has been sent to the Atlantic, and that has led to a suspension of the competition between the Panama Canal and the transcontinental lines. That may be a temporary condition due to the war. We have to look at the matter not only during war conditions but in time of peace.

Mr. JONES. I understand, and, of course, my statement takes into consideration the fact that the conditions are not normal. All the large water carriers have abandoned the canal. There is no regular service through the canal. The American-Hawaiian Lines took their ships out of the service and paid the transcontinental carriers a premium for hauling sugar that they had contracted to haul through the canal and still claimed they were making money in the transaction.

Mr. ESCH. Does the Tehauntepec route still serve as a competitor with the transcontinental lines?

Mr. JONES. No; it is not an active competitor. The regular service is through the canal. As far as I know, I do not believe the Tehauntepec route has been in effect since the opening of the canal.

Mr. SIMS. I would like to ask you what is the basis of the charge—you can name any place. You are from Arizona?

Mr. JONES. Yes, sir.

Mr. SIMS. I came through Arizona partly in the daytime and partly at night. I do not know what particular place to name. What particular place is on the Southern Pacific between here and Arizona?

Mr. JONES. The Southern Pacific traverses the State in the southern part.

Mr. SIMS. Just name some city on that line.

Mr. JONES. Tucson.

Mr. SIMS. You are from Arizona?

Mr. JONES. Phoenix, Ariz.

Mr. SIMS. Phoenix, Ariz.?

Mr. JONES. Yes, sir.

Mr. SIMS. Suppose there is a shipment coming from, say, Atlanta, Ga., or Savannah, Ga.—that is on the ocean—say, Savannah coming to Tucson. Is it a fact that the rate charged is the ocean rate from Savannah to—what is the ocean port of the Southern Pacific here?

Mr. JONES. San Pedro, or Los Angeles Harbor.

Mr. SIMS. Do they charge a rate from Atlanta to Tucson equal to the water rate to Los Angeles plus the railroad rate from Los Angeles to Tucson? How do they adjust those charges?

Mr. JONES. The rate from Savannah to Los Angeles is a fixed rate, made by conference and practically agreement of the transcontinental carriers, and presumably made when water competition was a factor, and as high as it could be made and yet what the carriers believed was a fair part of the traffic. There was no real basis, if that was your question—no combination of rates. The rail lines had heretofore really set the pace in rate making even for the water lines.

Mr. SIMS. Then the rate was not the water rate to the nearest point on the railroad plus the local from there to Tucson?

Mr. JONES. Yes; I understand your question now. That was the basis of rates into all Arizona points prior to about three years ago, when, under the suggestion of the commission, a modification of that was made and to points as far east from tidewater as, say, 500 miles, the rates might be and frequently were somewhat less than the combination. For illustration, take a 75-cent rate on steel or iron from Birmingham to Los Angeles—the rate to an intermediate point would be 75 cents plus the local rate, as you moved east, up to a point where it might meet a direct rate made with some respect to, we might say, its reasonableness.

Mr. SIMS. Take New York; that is on the Atlantic Ocean. Now, then, the water rate from New York to San Francisco—the all-water rate through the canal—would be anything you want to make it—say, \$10 a ton for some kinds of freight—and from San Francisco east on a direct line (on the railroad line that would probably take it, if it came all rail) to a point, say, 500 miles east of San Francisco; would the rate to this interior point be the water rate plus the local rate from San Francisco to this interior point. The freight going, though, by rail from New York to within 500 miles of the coast?

Mr. JONES. Up to two or three years ago when the Interstate Commerce Commission, through a decision of Commissioner Lane, condemned that in measured terms—that was the basis.

Mr. SIMS. What is the basis now?

Mr. JONES. I will try to illustrate it and make it clear. The rate, say, to Phoenix, on a commodity will be \$1, which was made because, in the opinion of the railroads, it was a reasonable rate.

Mr. SIMS. From some fixed point.

Mr. JONES. From some particular point—let that be from the Mississippi River—from St. Louis. They would make a rate of 75 cents to Los Angeles, a farther distance, which would be 25 cents less on the ground that that rate was necessary in order for the rail carriers to compete with the water carriers. Now, the conditions to-day are that that rate to an intermediate point up to the point where you would reach the dollar rate would be the terminal rate plus 75 per cent of the local. That was done by the commission out of deference to an appeal from places like San Bernardino and

points not far remote from tidewater, that with the full local bank, they would be driven out of the distributing business, and that difference in the combination was given. That prevails to-day.

Mr. SIMS. But the facts are that the intermediate place is charged higher for freight, although much nearer the starting point of the shipment, than the point having water competition?

Mr. JONES. That is true.

Mr. SIMS. That is the general rule, is it not?

Mr. JONES. That is the general rule; yes, sir.

Mr. SIMS. Can you give me any idea as to how that charge is made up? What principle controls that—what measure of determining that or means of determining that are employed? How do they arrive at how much they shall charge?

Mr. JONES. There is no rule or principle that I could explain. It is just the result of probably what the railroads would say was the best judgment of their traffic officials.

Mr. SIMS. The railroad, then, does charge more to a nearer point than to a farther one if the farther one has water competition?

Mr. JONES. Yes, sir.

Mr. SIMS. But it does not always charge as much more as the full charge to the water point and then the local from there back to the destination of the freight as originally billed?

Mr. JONES. Not at this time.

Mr. SIMS. Not at this time?

Mr. JONES. Not at this time.

Mr. SIMS. It is simply an arbitrary method of ascertaining what the rates shall be?

Mr. JONES. To a very great extent. The making of freight rates in their entirety is an arbitrary matter, to a very great extent.

Mr. SIMS. Is it based on the idea that the rate they do make is a reasonable one from the point of shipment to the point of destination?

Mr. JONES. It would be defended if attacked by the railroads as being reasonable.

Mr. SIMS. Per se?

Mr. JONES. Yes, sir.

Mr. SIMS. Giving a cheaper rate to a farther point, although going over the same line, would be defended on the theory they could not compete with the water competitor if not allowed to do that?

Mr. JONES. Yes, sir.

Mr. SIMS. And your theory is that this prevents interior development?

Mr. JONES. Unquestionably. It is a discrimination. It is undue and unjust discrimination and has retarded the development of the interior.

Mr. SIMS. An industry that might locate out 500 miles from the shore will go to the shore in order to get the competitive water rates?

Mr. JONES. They are practically forced to the shores.

Mr. SIMS. And your contention is that that prevents the development of the interior, although the interior would enjoy reasonable rates if there was no water competition?

Mr. JONES. That is the theory of the railroads in defending their rates, that the interior is getting reasonable rates, just as originally



they defended the interior rates as being reasonable when they were the terminal rates plus the full locals back.

Mr. THOM. May I ask, Judge Sims, that you bring out this point, whether or not their rates to the interior have not been passed on and in most cases fixed by the Interstate Commerce Commission and not by the carriers?

Mr. SIMS. The witness can answer that.

Mr. JONES. My answer would be, no; that has not been done.

Mr. SIMS. What is your remedy for what you claim to be an unjust discrimination? I understood you to say that we should abolish or make the rates reasonable. You mean by that that if they do carry to the farther point and charge 75 cents they can not charge the interior more than 75 cents for just a portion of that distance?

Mr. JONES. My theory is that the rates should be graduated from the point of origin to the points of destination and at any point intermediate; where distance is a factor have the rates commensurate with that distance.

Mr. SIMS. You mean to adopt rigidly the mileage basis?

Mr. JONES. Yes, sir.

Mr. SIMS. And it is necessary to the development of the interior as against these points where there is water competition to maintain such a rule of rates?

Mr. JONES. Yes, sir. Now, I go this much further in that respect: When that adjustment is made (that adjustment should be made, in my opinion, and made at once) and when water transportation became a potent factor—and I have stated this to the Interstate Commerce Commission, that personally I would not oppose it—I would join with the railroads in a readjustment that would give the railroads a fair part of the terminal traffic, if it could be done; if they could hold that traffic and move it at a profit. But my experience in the rate situation is that where water competition is met with, that there is always a differential between the water and rail rates. The rail service is more valuable. It is more regular. The hazards are less, and if the steamship lines running through the canal find a basis of rates in effect to the terminal cities, that they will only cut under those rates a sufficient amount to get what they consider a fair share of the traffic—what might fill their boats—but in the past the rail carriers have rather taken the initiative and maintained rates, and the steamship lines have been obliged to cut under what the railroads say are unreasonable rates in the first instance.

Mr. SIMS. Then your theory is to adopt rates for the whole country upon a mileage basis or the value of the service rendered as determined by the length of haul?

Mr. JONES. I believe to-day that is the solution of a great many discriminatory situations, and would be beneficial to the carriers.

Mr. SIMS. And would result in the development of the interior points, which are now suffering, as you claim, from such discrimination?

Mr. JONES. Yes, sir; I think that would follow, as a matter of fact.

Mr. SIMS. Have you known of any instances of industries being dismantled, so to speak, and going to the water competitive points after having tried to survive on the interior rates?

Mr. JONES. It would be almost foolhardy for anyone to establish an industry therein the first instance, although we have had some instances of industries that were established and abandoned, and that was given as the cause, that they could not compete with the industries at the coast. I think Utah has cases of that kind, probably to a greater extent than Arizona.

Mr. SIMS. Then your contention would lead to a law providing that if the carriers carried traffic to Los Angeles for a certain rate they could not charge any more than a just proportion of that rate to a point nearer the shipping point than Los Angeles, regardless of what effect it might have on business in Los Angeles?

Mr. JONES. I think so; yes, sir. That is my position exactly. If Los Angeles is getting something she is not entitled to, why, it would be her misfortune if she lost it.

Mr. SIMS. She is entitled to the water rates, is she not?

Mr. JONES. She is entitled to the water rates, and when water competition reappears she can avail herself of the water transportation.

Mr. SIMS. I am supposing it is present for the sake of argument. But, having that natural advantage, you do not think that her industries should have an advantage, then, in competing where the railroad is the only means of service with the interior points, by giving them that discrimination, on account of already having a natural advantage in the way of water rates for water shipment?

Mr. JONES. I do not think terminal cities are entitled to that advantage, and it is an advantage.

Mr. SIMS. Can you state in a general way, so the people who will read this record can understand it, the reasons for your contention? You say you do not think so. You may assume we know your reasons, but we do not. What are your arguments in favor of your position as to what effect it has on the interior country and what advantage it gives to the water competing points, etc.? Explain it just as though it was a new proposition and none of us knew anything about it.

Mr. JONES. I have tried to make it clear that in the past, even where there was no water competition, where the carriers by water were owned by the rail lines, this rate situation still prevailed. It is a matter of record and a matter of history in this State that the merchants at one time attempted to free themselves from that condition, from the condition of rail ownership of steamship lines, through the institution of a line of sailing ships, and the rates were made so low by the carriers that they drove those ships off the sea. It does not seem to me to be a healthy condition when carriers, either by law or by an order of the Interstate Commerce Commission, are permitted to continue that practice.

Now, from a practical standpoint—from a practical rate man's standpoint—I have had some experience in rate making, and I would say that the time is most opportune now for the railroads to establish what they would feel—and I would leave it to their judgment—is a fair line of transcontinental rates. There is nothing intervening to prevent it in the way of competitive conditions. Those rates should be graduated back. From a practical standpoint, when the water carriers reappear, they are going to make rates slightly under those rail rates, having in mind that their service is inferior, and they are going to take some of that business. If through their

own competition or own greed—if you will permit that word—they should go very much lower, then I think it is a condition that we might all well get together on and discuss and I am sure that the Interstate Commerce Commission would be able to find some solution. The carriers in presenting this matter of late have adopted the proposition that they should be permitted to participate in this competitive business—water competitive business—and if they can show the commission that the rates they make through tidewater covers the out-of-pocket cost, or probably a trifle more—and they have attempted to measure them and have possibly measured them—but if they are allowed to carry on a transcontinental line 50 per cent of their traffic at cost and can make money on other traffic, the interior is going to bear an undue burden in giving them a profit.

Mr. SIMS. I have heard arguments presented in connection with a railroad bill, that trains, having to run perhaps according to schedule time, if they carried freight in competition with water at the water competing point, that all it makes on that is an increase in its facilities to serve the interior points at a lower rate than it could if it did not make anything on that water competing point; in other words, if they did not carry any freight against water competition, even though the amount received might be small, that the interior point would have to pay more for its freight than it does now, because the carriers would be deprived of whatever they did make on the water-competing business. Have you considered that point of it and investigated it to see what is in it?

Mr. JONES. I have heard that argument advanced by railroad traffic men. I am not willing to subscribe to that doctrine.

Mr. SIMS. You do not accept that?

Mr. JONES. No, sir.

The VICE CHAIRMAN. That is simply nothing more than the old doctrine that it is better to work for nothing than to do nothing.

Mr. JONES. Yes, sir; that is a fair illustration. I think, gentlemen, in that connection, that the Interstate Commerce Commission should have jurisdiction over transportation from one point in the United States to another point in the United States wholly by water. That would solve the situation, in my opinion.

Mr. SIMS. Would you want the commission to have the right to fix a maximum water-competing rate?

The VICE CHAIRMAN. My committee has been afraid to go to that extent for fear they would raise all the water rates to the level of the rail rates. We thought that would be the tendency.

Mr. JONES. Of course if that would be attempted the rail lines would carry all the business. Rail transportation is more valuable than water transportation.

The CHAIRMAN. Why do you think rail transportation is more valuable than water transportation—say, transportation from New York to San Francisco by water as compared with transportation by rail. Can not the water transportation be conducted in a shorter time?

Mr. JONES. As a rule, the transportation is conducted in a shorter time—

The CHAIRMAN. By water?

Mr. JONES. By rail. I think when the American-Hawaiian Line and the Luckenbach Line had regular sailings, it was shown that



the rail carriers, under their schedules, would transport the traffic in five days' shorter time from San Francisco to New York. But the hazards and insurance features and loss and damage and a great many other things enter into it and make the rail carriage more attractive. The shipper stows his stuff in the car and unloads it and is not subject to storage like the water business is. I have never heard that fact disputed by either the rail or water carriers, that the rail transportation was the more desirable.

Senator CUMMINS. You mentioned, I think, that it was your opinion that the fourth section of the interstate-commerce law should be made rigid by amendment. How would you express it? In what form should it be made rigid?

Mr. JONES. Just a bare statement that a railroad should not charge more for a shorter than a longer haul on the same line in the same direction.

Senator CUMMINS. It would then be rigid; but is there any more justification for charging as much for a shorter haul as for a longer haul over the same line in the same direction?

Mr. JONES. There is no justification in practice in charging the short-line point as high a rate as the longer-distant point if the distance is a measurable factor in rate making.

Senator CUMMINS. The act before 1910, as you say—and I think that is historically true—was made practically inoperative by the construction which was put upon the phrase "under substantially similar circumstances and conditions." Now, the act, as we amended it in 1910, gave to the Interstate Commerce Commission no criterion or no standard whatever, but left it entirely and absolutely in the discretion of the commission. Now, I have always believed—and I contended then—that the proviso of the fourth section as amended in 1910 was unconstitutional. When you put that question up to the Interstate Commerce Commission, whether they shall exempt a particular commodity or a particular railroad from the operation of the general language of the section, what is the standard which the commission must employ—by what rule do they measure that?

Mr. JONES. Well, inasmuch as they have not yet rendered a final decision in these intermountain cases, of course, I could not state what their measure would be in that instance. They have laid down an administrative ruling that where one line of greater mileage—a circuitous line—operates between two points in competition with a short line that certain things must be shown, and I would not undertake to state now just what those things are; but it is perfectly logical that their ruling in that respect was sound, that the longer line must show to their satisfaction certain things; that the imposition of the higher rate to the intermediate point will not result in undue discrimination, and that they must be a certain percentage higher; that is to say—and I would not want to state those figures—but the line must be longer, by a certain percentage, than the shorter line, and has made what I believe to be a rather logical measure of relief in those instances as between two rail carriers. Of course the supposition is that, dealing with the water situation, it must be shown affirmatively that the lower rate must be made to preserve to the carriers a share in the traffic, and that the rate must be at least compensatory.

Senator CUMMINS. That is entirely in the discretion of the commission?

Mr. JONES. Absolutely.

Senator CUMMINS. What we said to the commission in 1910, or what we said to the country, was that there should be no greater charge for the shorter haul than the longer haul, but that the commission could repeal the law if it wanted to, without giving any reason of being subject to any rule or standard legislatively laid down.

Mr. JONES. That is correct. That is my understanding of it.

Senator CUMMINS. It has always seemed to me to be the most extraordinary legislation adopted for the guidance of a legislative body.

Mr. JONES. In practice it has certainly worked out disastrously to the great intermountain section. We have felt that we are not being treated fairly.

Senator CUMMINS. Is it your opinion that Congress ought now to declare positively and absolutely that there should be no greater charge for the shorter than the longer haul in the same direction over the same line?

Mr. JONES. I would answer that in the affirmative, unless Congress could lay down some governing rule.

Senator CUMMINS. Do you know of any governing rule we could lay down? Have you ever put it in form? That is the problem we have to solve.

Mr. JONES. As between competing rail lines, I think the rule—the administrative ruling of the commission—that they now operate under would be perfectly fair, but as between rail and water carriers, if you want to preserve for the country the value of water transportation, it must not be destroyed by a line of rail carriers making rates much less than reasonable rates for the transportation they perform.

Senator CUMMINS. Now, I recognize that there is an essential difference between competition between two land carriers and competition between a land carrier and a water carrier; and, as to the former, your idea would be that if one line is more circuitous or longer than the other, that we permit a lower rate to run back to the competing point—

Mr. JONES. I think that would be a very fair rule.

Senator CUMMINS. Would you permit that if the long route was so much longer as to involve a carriage at less than cost?

Mr. JONES. I should not permit that if it resulted in transportation at less than cost.

Senator CUMMINS. Now, with regard to water carriers, does the same rule which the railroads have adopted for the western coast apply also to the eastern coast?

Mr. JONES. I am not so familiar with the eastern coast. It has been significant to us that the eastern trunk lines have never supported the position of the transcontinental carriers in their applications for relief.

Senator CUMMINS. Suppose they were shipping from San Francisco to Pittsburgh, have the carriers ever insisted upon the rate to New York City and back to Pittsburgh?

Mr. JONES. Rates have never been constructed on that basis on the Atlantic seaboard.

Senator CUMMINS. Do you know why that practice has been adopted for the western coast and not for the eastern coast?

Mr. JONES. I believe it is—putting it rather bluntly and frankly—because the carriers have gotten away with it, and it has been a source of a great deal of revenue that they have not earned; and, further, in connection with that, it can be stated that the lines east of El Paso and Ogden do not participate in the divisions of intermediate higher rates, or did not the last time we went into the question—that is, a shipment from Chicago, say, to San Francisco or Los Angeles over the Rock Island to El Paso, on the Southern Pacific, where the freight was \$200, and on the same train another shipment dropped off at Phoenix, 500 miles shorter haul, where the freight would be \$300, the Rock Island in both instances got the same revenue and lines west of El Paso took up that flap.

Senator CUMMINS. Have you any information with regard to the volume of business that any given railroad does—for instance, the Union Pacific or Southern Pacific—at its terminal on the coast, as compared with the volume of business in the intermountain country?

Mr. JONES. I have not in my mind those figures, Senator; but, to the surprise, I think, of the Interstate Commerce Commission and, I know, to my surprise and others, there were put into the record at Salt Lake City, in the last hearing of that case, figures showing that the traffic to the intermountain district was vastly greater than to the terminals.

Senator CUMMINS. Do you recognize the cost of the service as a fair basis for making rates?

Mr. JONES. In making freight rates, it is very doubtful whether the cost of the service should govern. It is obvious that it does not cost any more actually, aside from the hazard, to move a carload of 20 tons of pig iron than it does to move 20 tons of tea. Of course, there is a greater hazard and insurance rates on the higher class of commodity. The ability of the traffic to pay the rate, whether it would move or not, often governs the movement of the low-class commodity. I think even to those that have studied the matter a great many years that the state of the freight rates and the relation one freight rate should bear to another, as to commodities, is somewhat complicated and should be so arranged that it would be flexible, and I believe the railroad companies have been heretofore, and are at this time, using very good judgment and making few mistakes in making their rates so that one would bear the proper relationship to another.

Senator CUMMINS. The ability of any particular traffic to pay the rates is only a paraphrase for making rates so that the public welfare will be best promoted, is it not—or ought to be?

Mr. JONES. That is one way to express it. It used to be expressed in perhaps a more forceful way in the past—what the traffic would bear.

Senator CUMMINS. It is obvious, is it not, that there are some kinds of traffic which must be moved at a lower rate in order that the public may be properly served in its distribution?

Mr. JONES. Yes, sir.



Senator CUMMINS. Because if the rates were made purely on the cost of service it would prohibit the distribution of the commodity, whatever it may be, and various parts of the country would be deprived of the use of the commodity?

Mr. JONES. I think that is unquestionably true.

Senator CUMMINS. If that is so, there must be a discretion reposed somewhere in adjusting these rates from the standpoint of the public welfare, and that would apply to the length of haul as well as to the kind of commodity, and what has always bothered me—and I would be very glad for some light on the subject—is to prescribe some rule by which an administrative body could be governed in exercising that discretion.

Mr. JONES. I should hate to attempt to make an answer to that offhand.

Senator CUMMINS. At the present time the carriers themselves exercise it very largely, and they may do it sometimes wisely and sometimes unwisely, sometimes justly and sometimes unjustly. If we take that discretion from the railways and repose it in a public body, we have got to give that public body some guide so that it can proceed, for I do not think it either practicable or legal, simply to say to a public body, "You take this and do what you please about it."

Mr. JONES. The Interstate Commerce Commission have construed that proviso substantially to that effect.

Senator CUMMINS. I know they have.

Mr. JONES. That they can do just what they please about it.

Senator CUMMINS. I am perfectly free to say that I am not as much opposed to the fourth section as amended now as I was when it was originally put up. Of course, you know it was a compromise at that time, at least in the Senate, between the demand for a rigid long and short haul clause, such as you have suggested, and the law as it existed at that time.

Mr. JONES. Yes, sir.

Senator CUMMINS. And I have really doubted whether we have bettered the situation or not.

The VICE CHAIRMAN. In the House we thought it sufficient to transfer the discretion from the railroads themselves to the commission, thinking the commission would exercise it wisely, and if not, that the personnel of the commission could be changed so that it would do it wisely.

The CHAIRMAN. Have you any jobbing centers in Arizona?

Mr. JONES. Yes, sir; we have several, and possibly in the order of their importance they would be Phoenix, Tucson, but practically all the towns of any importance have large mercantile institutions that job within a radius half way to their next town. That would take in Flagstaff, Winslow, on the Santa Fe, and Kingland to certain parts in the southern part of the State.

The CHAIRMAN. As to those jobbing centers, has their condition been improved at all by the amendment which was adopted to the fourth section of the interstate-commerce act in 1910?

Mr. JONES. The conditions have improved wonderfully since that time, not wholly by reason of any final order of the commission, but by reason of the suggestions of the commission and by reason, we think, of the constant agitation by the Intermountain States threatening against that situation. A question came up a moment ago as to

whether the Interstate Commerce Commission had not prescribed the present scale of rates. I state my answer rather broadly, having in mind, however, Arizona particularly. They may have prescribed—and I think they did prescribe—a scale of rates to Salt Lake City, but there has been no line of rates prescribed by the commission.

The VICE CHAIRMAN. If the chairman will permit, did not the carriers themselves, following that amendment, make a general revision of their rates to meet that amendment?

Mr. JONES. There has been an effort in that direction and we are very much better off, and I think our country has responded in increased business, development, population, etc.

The CHAIRMAN. But the change has not been as beneficial as you expected, or as you had a right to believe?

Mr. JONES. We have not had out of the situation what we believe we are entitled to.

The CHAIRMAN. You say this beneficial change has not come from the action of the commission, but from the action of the carriers themselves in an effort to meet the purpose that the amendment was intended to secure?

Mr. JONES. I do not want to be understood as saying that no benefits have been derived through the action of the commission. The first order in the intermountain cases—comprehensive order—was written by Commissioner Lane—

The CHAIRMAN. When was that given?

Mr. JONES. That was given—I do not want to be too sure about that, but it seems to me in 1912.

Mr. ESCH. Was that the Spokane case?

Mr. JONES. Yes, sir.

Mr. ESCH. Well, that was in 1912.

The VICE CHAIRMAN. Did not the carriers themselves make their own revision, following this amendment of the fourth section? Did they not then submit a revision to the commission with applications for permission to exercise their discretion as to permitting these exceptions?

Mr. JONES. The commission, by appropriate order or notice, gave the carriers a certain period within which they might apply for exemptions where they were then violating the fourth section, and the carriers generally made such application, and that order had the effect of sustaining, or at least approving temporarily, a continuation of the rate condition existing until the commission could take up and dispose of those matters. There were a great many cases involved, both freight and passenger, and spread all over the United States, and it was a large task to meet those.

The CHAIRMAN. Has the commission, in any case, disposed of those cases?

Mr. JONES. Yes, sir; it has disposed of a great many of those cases. I have not followed them all closely.

The CHAIRMAN. Favorably to the intermountain region or unfavorably?

Mr. JONES. Not with respect to the intermountain situation, because that, as I say, is still pending. The last order issued by the commission was to have been effective, I think, the 1st of October, where the long and short haul provision of the law would have been regarded—it was suspended, I understand, by reason of an

amendment or some act passed by Congress that rates could not be advanced without an application from the carriers and their application being justified.

Mr. ESCH. That is, to increase rates?

Mr. JONES. Yes; increase rates. We understood that was without any official action.

The CHAIRMAN. That was last October?

Mr. JONES. My impression was that the order of the commission issued some time ago was made effective the 1st or the 15th of October.

Senator CUMMINS. You remember that it was following the decision or following the application of the fourth section to many of the southern railways which gave rise to an increase in certain rates as to which Senator Smith of Georgia complained so bitterly while we were passing the last act, and out of that grew his proposed amendment, which was put in in some form when we increased the Interstate Commerce Commission. That all followed the application of this section to the situation.

The CHAIRMAN. How do you account for the delay of some seven years in reaching any conclusion on this subject?

Mr. JONES. Well, by the first order, as I started to state, of Commissioner Lane's, we were deprived of the benefits we might have under that order by an appeal by the railroads to the courts. The Supreme Court affirmed the decision, and then the canal came along and was completed and various things have interposed.

The CHAIRMAN. How has the canal been a disturbing factor?

Mr. JONES. Well, the railroads when the canal was completed claimed that the cases should be reopened, because conditions had very materially changed—conditions of water transportation as between the canal and between the Tehuantepec route.

The CHAIRMAN. Was that contention disposed of?

Mr. JONES. Yes, sir; that contention was disposed of after a great many hearings and arguments and finally resulted in this order that I have spoken of which became effective a short time ago, and which has been, by reason of—

The CHAIRMAN. That order was suspended by reason of the legislative order of Congress in the bill increasing the Interstate Commerce Commission, which forbade railroads making any increases in rates without the approval of the commission.

Mr. JONES. That is my understanding; yes, sir.

Senator CUMMINS. Is it not true that there was one phase of the Spokane case that had received rather careful consideration and rather a full opinion, which related mainly to eastbound traffic in which the country was divided into zones and the rates were fixed from the west into each of those zones?

Mr. JONES. That was Commissioner Lane's opinion.

Senator CUMMINS. That had little, if anything, to do with the west-bound traffic?

Mr. JONES. Well, that went to the westbound rate situation. Certain zones were created starting at the Missouri River and ending at the Atlantic seaboard, where the rates from those zones were built up on certain percentages to certain points up to the terminals.

Mr. ESCH. That is where they established the zone system of rates; that is, from the Missouri River points to the Pacific terminals, there



is a blanket rate; from the territory between the Missouri and Mississippi there is a differential of  $7\frac{1}{2}$  per cent; between the Mississippi River and the Pittsburgh line a differential of 15 per cent; and for the whole Atlantic Coast line a differential of 25 per cent?

Mr. JONES. Yes, sir.

Mr. ESCH. That did not become fully operative?

Mr. JONES. No, sir.

Mr. ESCH. If it had become operative, would you have been advantaged?

Mr. JONES. Well, it would have been an advantage. At that time when that order was entered our rates were on the old basis of the full back haul—the full locals back. It would have given us the Missouri rate—the same rates that apply to the terminals—and the rates would have been very much lower than the locals back and would have been a relief to us in a great many ways.

Mr. ESCH. If your contention that there should be distance tariffs established were put into effect, it would deprive the Pittsburgh and Atlantic coast people of the opportunity of supplying your markets, unless through the Panama Canal, and an absorption of rates from the interior points of production to the coast points would meet that competition.

Mr. JONES. I do not believe it would keep any district like Pittsburgh out of the market. That is my judgment.

Mr. ESCH. The ship lines have absorbed the rail rate from Pittsburgh to the Atlantic, have they not?

Mr. JONES. There was a time when they did that.

Mr. ESCH. And then they absorbed some of the rates from the Pacific coast ports to your interior here.

Mr. JONES. They did to certain points, for the reason that the railroads had given those points—namely, points like San Jose and Sacramento—had given them those rates, and water lines absorbed those rates to compete with the railroads.

The VICE CHAIRMAN. You referred a time or two to the rail carriers driving temporarily the water carriers out of business by reducing rates. There is an amendment to the fourth section, made in 1910, which you have not mentioned, by which we provided if a rail carrier did it, that it should not afterwards increase its rates without showing changed conditions not attributable to competition. What effect has that had on the situation? Has it benefited you any?

Mr. JONES. As far as I know that has not been regarded by the Interstate Commerce Commission. It has not regarded it in dealing with this situation here, at least.

The VICE CHAIRMAN. Has it been presented before them?

Mr. JONES. Yes, sir; it has been presented to them, and rates have been increased, I think, over the protest of certain interests.

The VICE CHAIRMAN. Probably they decided an issue of facts based on the language about changed conditions.

Mr. JONES. That might have been it. I do not attempt to speak authoritatively on that, because I have not given that situation very close study.

The CHAIRMAN. From whom does the opposition to the relief which the intermountain region is seeking under the amendment of 1910 come—from the railroads or from the jobbing centers that are the beneficiaries of water competition?

Mr. JONES. From both, Senator. The Pacific coast terminal cities, through their commercial organizations, have naturally been very active in the matter, and they have substantially throughout the controversy supported the position of the railroads.

The CHAIRMAN. Is that true of all the coast cities—San Francisco and Los Angeles?

Mr. JONES. And Portland and Seattle.

The CHAIRMAN. Portland and Seattle?

Mr. JONES. Yes, sir.

Mr. SIMS. Is that for the reason that these local cities do the jobbing to the near-by points which they might lose in case there was a rate fixed based on mileage from the East?

Mr. JONES. Of course, they have not stated their reasons, but it is obvious those are the reasons: that if Salt Lake City or Phoenix or Reno gets the same rate as San Francisco, San Francisco could not supply those towns with any particular commodity.

Mr. SIMS. Do they contend, on account of the water rate they have from the East, that they can supply these points cheaper than these points could be supplied if they received their rates from the East—their all-rail rates from the East, such rates as would be declared to be reasonable?

Mr. JONES. I think there was a period after the opening of the canal when the traffic through the canal was dense, that that was true. The coast cities could ship their stuff by water and rail back into the interior to a certain distance, and I think it was shown that the interior cities themselves availed themselves of that water rate in combination with the rail rates.

Mr. SIMS. So the coast cities contend that the interior cities are not injured by reason of their having this cheaper rate?

Mr. JONES. I do not know that they have contended they are not injured, because they have been injured, but they have contended that the injury was the result of conditions that have grown up through a number of years, and they should not be deprived of the advantages they have previously had. To a very great extent it is a fictitious commercial condition that can not be perpetuated under any system of equity.

The VICE CHAIRMAN. Under an amendment contained in section 11 of the Panama Canal act the commission may compel a railroad to make a connection with any ship, and the commission may also proportion the land part of the charge: so if, after the war is over, there is sufficient shipping available for commercial transportation, it seems to me your interior points could very easily arrange transportation around from the Atlantic coast, or from the interior towns in the East around via the Pacific Ocean, under that amendment. It seems to me if the terms of that amendment are availed of in time of peace it will prove invaluable to points in the interior.

Mr. JONES. I felt that the construction of the Panama Canal was an asset to the entire country, including the intermountain districts, and that under certain adjustments we might use that method of transportation.

The VICE CHAIRMAN. You can compel an adjustment if there are ships available.

Mr. JONES. Yes, sir.

The CHAIRMAN. Has the contention of Arizona been that the intermountain charge should be reduced to a proportional part of the total charge to the terminal points, or has it been that the charge to the terminal points should be increased?

Mr. JONES. Well, we have not, of course, advocated an increase of the terminal rates. The result would be if the old rates were sustained an increase in the terminal rates. We have taken the position that, since the canal has been closed, or virtually has not been a factor in rate making, the carriers should observe the fourth section; that if there was any reason for the proviso it was to enable the commission to meet changed conditions. Conditions have changed, and there has been no real competition and no reason why the terminal cities should be favored. Personally, I believe it would be worth a great deal to the Interstate Commerce Commission and to the entire country to take advantage of the present situation in order to get a line of rates established that might be used as a measure in the future.

I have never gone so far as to say in the future if exemptions are properly given that the carriers are not entitled to some exemptions in order that they might be permitted to participate in that traffic, although, as I stated, that is my personal view; the view of my commission and the view of the intermountain States generally is that with relation to our traffic it is unwise and unfair to grant any exemptions.

The CHAIRMAN. What would be the effect of frequent changes arising out of changed conditions? Would it have a very serious economic effect upon these various jobbing centers there in the intermountain regions or on the coast?

Mr. JONES. I believe it would. Certainly the water rates, as have been shown, fluctuate from day to day, and upon these water rates the coast and terminal cities have based their rate calculations. They do claim, of course, that the lack of facilities would be injurious. If they are going to rely on an unstable state of affairs, that, of course, can not be helped.

Mr. ESCH. As to the power of exemptions, who should exercise that? I understood you to say in the first instance the fourth section should be rigid.

Mr. JONES. I made that statement predicated on the further statement that I was representing the opinion of our State commission and the opinion generally of the intermountain States. I think Judge Bartine will bear me out when he appears. Personally, I would modify that to the extent—and I made that statement before the Interstate Commerce Commission—that if rate conditions now were placed on a normal basis, that my belief as a traffic man was that as the rail carriers should not be deprived from their right to participate in the business as long as it can be done with a profit, and if they would not use their authority granted to hammer down the water rates and drive the water carriers off the sea. Of course, that is a rather unfortunate situation to deal with. If it could not be dealt with in fairness and justice, and if discrimination could not be entirely avoided, then I should certainly adhere to a hard and fast long-and-short-haul law.

Mr. ESCH. What would be the effect of putting in force distance tariffs?



Mr. JONES. Well, the effect would be that every point in the United States would be given whatever advantage its geographical location would entitle it to with respect to trade and in seeking raw products.

Mr. ESCH. But these Pacific port terminals claim they have natural advantages.

Mr. JONES. We have always been in favor of their availing themselves of those natural advantages, but they have gone farther and said to the Interstate Commerce Commission as to the railroads, in effect, "We have a vested right here in preferential rates and you must not disturb them, notwithstanding there is no water competition."

Senator CUMMINS. What do you understand by the term "distance tariffs" as used by Mr. Esch?

Mr. JONES. We understand it generally to be a tariff scaled to mileage.

Senator CUMMINS. And distance is a factor?

Mr. JONES. Yes, sir.

Senator CUMMINS. Of course not a uniform charge mile for mile?

Mr. JONES. No, sir.

The VICE CHAIRMAN. What would you say about putting a service charge on for the handling of all shipments, so as to make differences in distances—differentials between the various States—as small as possible?

Mr. JONES. I did not quite catch that?

The VICE CHAIRMAN. Have a handling charge—a charge for loading and unloading every shipment. Then your differential mileage between the stations might be infinitesimal.

Mr. JONES. As we would understand a proper practical or scientific distance schedule, it would take the terminal charges into consideration. It would, of course, take into consideration the proposition that as distances increase your per ton per mile basis would decrease.

Senator CUMMINS. Is that because it distributes the terminal charge over a greater distance or because it costs less per mile to carry over longer distances than over short distances?

Mr. JONES. It would do that, because it is distributed over a longer distance.

The VICE CHAIRMAN. Your differentials between stations might disappear entirely before you reached the end of the line?

Mr. JONES. In crossing the continent you might have territorial divisions, as they have in the East. Applying to a State, it might be reduced to miles, as it is. The Interstate Commerce Commission has instituted in a number of instances live-stock, etc., distance tariffs.

Mr. ESCH. But the shorter the haul the more rapidly the company could shuttle back and forth its car equipment, and thereby increase its earning capacity.

Mr. JONES. That is true, and it is also significant, in following out that proposition, that our shortest railroad in Arizona is earning the biggest net money on, I think, the biggest capital per mile of road in the State. That is by reason of the fact there is an enormous tonnage handled—ore.

The CHAIRMAN. You spoke of the advantages of having State commissions in connection with the informal adjustments of contentions between shippers and carriers. You intimated that would be lacking

if the entire control was in the national commission. Could not regional commissions cover that ground just as satisfactorily?

Mr. JONES. Well, if the district covered by the commission was not too large. When that proposition was first brought to the attention of the public I was somewhat disposed to accept that as a solution of a great many difficulties we were encountering, and I am not now prepared to say personally that they may not be the ultimate solution. But I want to say in connection with this Shreveport doctrine, as we understand it, if the proper spirit is shown by two States, or by the shippers and the State, or by the State and the Interstate Commerce Commission, there is scarcely any of those problems which can not be fairly and justly disposed of.

Mr. ESCH. Mr. Edgerton claimed that that would mean a compromise.

Mr. JONES. Of course where two people differ and a solution is found it is generally in the nature of a compromise. I do not believe the Shreveport matter would have ever come to the attention of the country, possibly, if the Texas and Louisiana commissions could have gotten together, or even if the Texas commission had entered its appearance and supported its contention before the Interstate Commerce Commission. That is just my personal view. But we have a Shreveport case and we have had three hearings on that case. We feel, with all respect to the Interstate Commerce Commission, that we have been treated rather unfairly in that we have been called to Washington three times and to Los Angeles two or three times to defend a scale of State rates when the ostensible party who was complaining dropped out and the railroads assumed the position of complainant. If the carriers are going to use that situation in that way it is going to cause trouble, but if, in a spirit of fairness, those interested in the matter will go over the matter, in ninety-nine out of a hundred cases, the matter will be solved satisfactorily. We have adopted a great many schedules of the Interstate Commerce Commission, their express schedule, their classifications, and so forth, and as far as we can we have adopted their plan. The great trouble, in my opinion, with the Interstate Commerce Commission attempting to handle State matters at this time would be the physical impossibility of ever reaching them and possibly the expense entailed on the country, because the States would have to maintain State bureaus for the regulation of other utilities.

Mr. ESCH. One of the chief complaints under the existing practice is delay in getting decisions from the commission, is it not?

Mr. JONES. That is a source of considerable complaint.

Mr. ESCH. The carriers suggest that there be established throughout the country regional commissions covering certain traffic areas with possibly the right of appeal to the Interstate Commerce Commission. Would that organization, in your opinion, expedite or delay final decisions?

Mr. JONES. It seems to me that would delay a final decision because if either party was finally displeased there would be an appeal.

Mr. ESCH. Supposing we gave the regional commissions final authority in a certain class of cases, would you think that would be advisable in the interest of expedition? Do you think it could be done—to deprive them of the right of appeal, or ought we to deprive them of the right of appeal?

Mr. JONES. I do not believe that they ought to be deprived of the right of appeal. I do not think it would work out in practice satisfactorily.

The VICE CHAIRMAN. We have now provided for an increase in the commission and also permitted it to subdivide itself into four or more subdivisions, each subdivision with authority to act and decide cases subject to revision by the entire commission under certain conditions. If we had enough commissioners as able as they ought to be in those positions, and say that the commissioners shall take testimony and hear cases and consider them and pass on them, instead of sending lawyers and examiners and clerks around to dispose of them, do you not think that would expedite matters and be more satisfactory?

Mr. JONES. I do. I think there has been a great deal of dissatisfaction and a disposition to criticism directed against the Interstate Commerce Commission by reason of that very fact you speak of. I do not think there is anyone who started to work with the commission that has not at some time found some cases rendered by the commission where the opinion, up to the point of order, would lead you to believe the order would go one way and would go the other, indicating that the examiner, or whoever handled the case, had his mind pretty well made up and wrote out his opinion with the idea of reaching a certain conclusion and the commission, or some one, got hold of it and changed it.

The CHAIRMAN. Apart from any question of invading the jurisdiction exercised by the State commissions, do you think that the establishment of regional commissions would advance the interests of shippers throughout the country?

Mr. JONES. I think possibly it could be done. I think the organization could be perfected where that could be done. If the work could be effectually kept up, it seems to me there should be as many, if not more, commissioners as there are States.

The CHAIRMAN. That is what I wanted to get. Do you not think in the intermountain regions, for instances, that more than one commissioner would be required there?

Mr. JONES. If they had supervision over all intrastate matters, I do not see how it would be possible for them to reach all the cases promptly.

The CHAIRMAN. Do you think they would have to have one in every State?

Mr. JONES. I think possibly under some circumstances two States or more might be doubled up, and possibly in some instances one State would be a pretty big job. This State has five commissioners and they are pretty busy.

The CHAIRMAN. They handle all public utilities?

Mr. JONES. Yes, sir.

The CHAIRMAN. And that alone is a pretty large field of jurisdiction.

Mr. JONES. Yes, sir; my observation has been, as I stated a while ago, that any apparent conflict between Federal and State rate making might be obviated by the parties at interest. We have observed that the railroads are unnecessarily hampered by State legislative enactment going to so-called safety measures and operation limiting



the number of cars and providing for a certain number of men, and that those things are really confusing to the railroads, and, of course, if one State, for instance, Arizona, has a car-limit bill, a train on the Santa Fe leaving Gallup, in New Mexico, and coasting down the grade to Winslow, can pull as many cars as it can start, and in that case when you reach the State line, which is simply nothing but a signpost, to say that the conditions on the other side of the signpost are different, compelling a change in the train, is absurd.

I think, with Mr. Thelen, that in the matter of supervision of bond and stock issues, and those matters, going to a certain extent to the regulation of safety appliances and matters of that kind, that those matters can be better handled by the Federal Government.

Mr. ESCH. Would you apply that to full crews and headlight laws?

Mr. JONES. Yes, sir.

The CHAIRMAN. So as to all matters relating to the size of trains, hours of labor, and the public safety, you think it would be wiser to have that jurisdiction exercised under the national power than under the State?

Mr. JONES. I feel that way about it. You take the——

The CHAIRMAN. What powers do you think it is essential that the States themselves should hold? How is it with reference to the power of taxation? Do you deem it wiser to have the same rule of taxation applied all over laid down by the National Government, or have each State prescribe its own system of taxation?

Mr. JONES. Well, I do not know to what extent, if any, the present method of taxation might result in discrimination. I can see where it might.

The CHAIRMAN. You would regard that as unfortunate, would you not, in railroad administration?

Mr. JONES. Yes, sir.

The CHAIRMAN. Giving an unfair advantage to one State as against another?

Mr. JONES. Yes, sir; it might lay a burden upon one State where there were more moderate tax demands than in the other, although when you came to the question of values if the railroad properties were valued in the same way, a State commission might be better off in knowing what those values are. I heard the matter of taxation discussed here, and I must confess I do not know which plan would be better.

The CHAIRMAN. How do you view the question as to grade crossings?

Mr. JONES. It seems to me that grade crossings could be much better handled by the State.

The CHAIRMAN. How about terminal expenditures, in the way of stations, freight accommodations, etc., side tracks, and other facilities of transportation—which jurisdiction could best exercise its powers in the interest of the public?

Mr. JONES. Well, there is a question in those matters. I do not know why the State could not just as well, and possibly better, look after the terminals, etc. As I view it now, I should be inclined to that opinion. The State, of course, is in touch with the necessities of the business.

The CHAIRMAN. Then your idea would be to leave both jurisdictions operative in that field. You would not make it exclusive in the State, would you?

Mr. JONES. As far as I have gone into the subject I believe that the matter of capitalization and bond issues and matters of safety appliances, car limits, etc., and those matters, where the State boundaries can not affect the situation, that the Federal Government can better handle them. As I say, when the matter of regional commissioners came up I was somewhat inclined to take that view. We find the Interstate Commerce Commission, I think, is possibly tightening up in the matter of procedure and making it more difficult for a layman to get in, while the State commissions generally are holding the doors open and letting a shipper come in and get an adjustment without very much formality.

The CHAIRMAN. Of course, you understand the whole scheme of the revision of national control involves bringing the regulating power nearer the people and communities.

Mr. JONES. Yes, sir; of course, mere State boundaries in the final analysis should not govern.

The CHAIRMAN. I can understand how taking the matter away from the States and moving it to Washington and centralizing it would have its advantages, but my criticism is that centralizing will not permit it being brought closer to the people.

Mr. SIMS. Suppose there should be 20 regional commissions, would it not usually follow in effect, and would it not usually be a fact, that unless the decision of the regional commission was a matter of compromise and agreement between the complainant and the railroads, there would be an appeal to the commission by one party or the other?

Mr. JONES. I think so.

Mr. SIMS. Suppose they do appeal to the central commission and the central commission decides against the railroad company, and the railroad company immediately brings suit saying the commission has exceeded its authority and that the decision is confiscatory. You will have litigation in the courts. How can you prevent this litigation? Those matters can be alleged and an injunction obtained, and until the case is tried the order is suspended, and if it is suspended two years before the action of the court is had, it might as well not have been made in the first place.

Mr. JONES. That has been the history in some of these matters.

Mr. SIMS. Will it not be likely to happen again in the case of regional commissions?

Mr. JONES. Of course it opens the door to that. I have no doubt there would be a great many appeals from the regional commissions, in the hopes of getting a reversal.

Mr. SIMS. If the matter happened to be one of substantial importance, either party may take an appeal, and if the railroad loses it will take an appeal always. Now, suppose the railroad company does not appeal from the action of the regional commission but brings its suit immediately and enjoins putting the order into effect on the ground that the commission exceeded its authority, or that the order is confiscatory? The courts could review the action of the regional as well as the central commission.

Mr. JONES. It would just add that one more chance of appeal and litigation.

Mr. THOM. I think you will find that that matter was decided by the Supreme Court in a case that went up from Virginia, the case of *Prentiss v. Atlantic Coast Line*.

Mr. SIMS. Does it hold that unless the railroad appeals to the commission, it could not attack the validity of the order?

Mr. THOM. Until the railroad or litigant exhausts its remedy afforded by the statute there is no justification for litigation. That case arose in this way: It arose under the Virginia system, and there had been a decision by the State Corporation Commission of Virginia as to a rate, and immediately upon that decision there was an appeal to the courts; but the law provided that there might be an appeal from that decision, and the Supreme Court held that that attack in the courts was premature and that they ought to follow out the remedy afforded by statutory process before attacking the order of the subordinate body.

Mr. SIMS. Of course, we could provide in the statute that an appeal could be had by either party, and in case there was no appeal taken it should be final on the idea that it had been consented to. But suppose the order of the regional commission was attacked as null and void, as being beyond the authority of law and not having authorization to act in the matter, having exceeded its authority. Would you say the courts would not have jurisdiction to try that?

Mr. THOM. They did say that. It was attacked on the ground in that case that the corporation commission had exceeded its constitutional power.

Mr. TROY. Did not the Federal Constitution give that commission judicial powers? Is not that the reason of that decision?

Mr. THOM. No. The reason was that the Virginia constitution had afforded a supplemental remedy, which was an appeal from the State corporation commission on the question itself. Now, instead of taking that appeal there was an attack upon the validity of the order in the Federal court. The lower Federal court decided the case in favor of the attacking party, and an appeal was taken to the Supreme Court, and the Supreme Court said, in an opinion delivered by Mr. Justice Holmes, that that attack in the Federal court was premature; that they ought, by comity, to have pursued the remedy that was permitted by the system of law.

The VICE CHAIRMAN. You say there was a prayer for injunction?

Mr. THOM. Yes, sir.

The VICE CHAIRMAN. The law will not grant relief to a man who can get relief elsewhere.

Mr. TROY. Was not that because the Virginia constitution prescribed that they must appeal to the court from the decision of the Virginia commission?

Mr. THOM. No; it said they might appeal to the courts, but that in that case the remedy was not pursued.

Mr. SIMS. But from the action of each regional commission there will be an appeal to the central commission. It will be appealed by either side, and upon the final action of the central committee its action may be attacked in a suit in court for lack of authority, because it was confiscatory; in other words, you can finally attack the orders of the central commission in every case in which you can attack the



order of the Interstate Commerce Commission now, on the same grounds?

Mr. JONES. That is true.

The CHAIRMAN. Are there any railroad corporations organized under the laws of Arizona?

Mr. JONES. Yes, sir.

The CHAIRMAN. Are there any operating in your State that are not organized under the laws of Arizona?

Mr. JONES. Yes, sir; a number.

The CHAIRMAN. Which preponderate?

Mr. JONES. Well, in mileage, of course, the foreign corporations preponderate.

The CHAIRMAN. How about in number?

Mr. JONES. In number I should think it would be about an even split. That is just a very hurried guess.

The CHAIRMAN. Now, take the great railway systems that pass through your State: There are the Southern Pacific, the Atchison, Topeka & Santa Fe——

Mr. JONES. The El Paso & Southwestern.

The CHAIRMAN. The El Paso & Southwestern?

Mr. JONES. Yes, sir.

The CHAIRMAN. How about the El Paso & Southwestern: is that incorporated under the laws of your State?

Mr. JONES. I think that is. The Arizona main line and branches are incorporated under our laws.

The CHAIRMAN. A separate corporation which is a part of this system?

Mr. JONES. Yes, sir.

The CHAIRMAN. How is it with the Southern Pacific?

Mr. JONES. The Southern Pacific, of course, is the parent corporation.

The CHAIRMAN. Organized under the laws of what State?

Mr. JONES. I think the Southern Pacific Railway Co. is composed of two corporations, one a Kentucky corporation, and, I think, the other is a California corporation: one an operating company and one an owning company.

The CHAIRMAN. The holding company is the Kentucky corporation and the operating company is the California corporation?

Mr. JONES. Yes, sir.

The CHAIRMAN. How about the Atchison, Topeka & Santa Fe?

Mr. JONES. Their main line is incorporated under the laws of Kansas, I understand. They have some branches that they own which were incorporated under our laws which have been recently absorbed by the parent corporation.

The CHAIRMAN. So that the parent corporation in Kansas owns the line operating in your State?

Mr. JONES. Yes, sir.

The CHAIRMAN. Of course, Arizona had no share in the legislation of Kansas or Kentucky that led to the organization of these great corporations. I want to ask you what you regard as the best system, a system that permits of the incorporation of a great system that is to operate in many States, of which the State of Arizona would be one, to be organized under the laws of a single State, and which perhaps does not have a mile of that railroad within its boundary, or a

system that would submit the framing of charters of these corporations to the jurisdiction of the National Government?

Mr. JONES. I have only studied that situation since the question has been discussed here at this hearing. I have never given it any previous consideration. There may be good reasons why it would be better to have a national corporation, but if the sole reason would be to deprive the States of their regulatory power, I think that would be unwise. In my opinion, I think very soon after we attempted to centralize control of the railroads of the United States we are going to have a clamor for public ownership, and that it will come.

The CHAIRMAN. You think it would be a step in that direction?

Mr. JONES. I do.

The CHAIRMAN. Would it necessarily lead to it?

Mr. JONES. It need not necessarily lead to it.

The CHAIRMAN. If it resulted in perfected regulation, such regulation as would satisfy the public, probably there would be no danger of public ownership.

Mr. JONES. It might have that effect.

The CHAIRMAN. Do you not think it wise, before coming to public ownership, to perfect in every way public regulation and only going to public ownership when the failure of public regulation is demonstrated?

Mr. JONES. I think that should be the last resort. I think it should be fully demonstrated that public regulation is defective before going to public ownership.

The CHAIRMAN. Now, I am as anxious as you are, or as any representatives of the States are, to see to it that the rights and privileges of the various communities and States are protected and guarded. Do you not think that in the scheme of incorporation—that in adopting a scheme of incorporation of these great railway systems—that we are very much more likely to have wise legislation providing for incorporation of such great systems when that legislation is adopted by a body in which every State of the Union has representatives, representatives in the Senate and popular representatives in the House, every district in the United States represented, than if you were to resort to the legislature of an individual State for such legislation, and possibly a State within whose boundary there would not be a mile of rail belonging to the organization sought to be effected? What do you think about that?

Mr. JONES. Well, it would seem on the face of it that the combined part of wisdom of the representatives of several States acting together might give us better results than one acting singly. If it would be the plan to confine that incorporation to railroads serving more than one State, I would see no objection to it, and there might be great advantages, but frequently railroads of but a few miles purely local in their character are incorporated. We have a great many in our State. Whether it would be wise to incorporate those under Federal laws or not is questionable.

The VICE CHAIRMAN. There are two kinds of persons in the law. There are artificial persons, such as corporations, and there are natural persons, such as those born of man and woman. The Constitution provides plenty of authority to regulate commerce between the States, regardless of whether the persons conducting the commerce are natural or artificial or where they may be born. Do you think it

any more logical to say we could regulate these railroad corporations better if they were incorporated under the Federal law than to say that a man must be born in the District of Columbia in order to be amenable to the laws of the United States?

Mr. JONES. I have not studied that, but I agree with you, Judge, that centralization is unwise as an abstract proposition.

#### STATEMENT OF EDWARD P. E. TROY.

The CHAIRMAN. Will you be good enough to state your residence and occupation?

Mr. TROY. 1263 Oak Street, San Francisco. Latterly I have been doing work in matters of taxation and public utilities and writing for the press on franchise question and public utility and public ownership questions.

The CHAIRMAN. Do you wish to proceed now on the Government ownership question?

Mr. TROY. No; I would rather cover some of the questions that have come up before you and some others relating to the Interstate Commerce Commission. There is one question which was brought up, relating to taxation, Mr. Chairman, which was a very important question; and I want to, first, say that the whole question was so broad that I will have to refer to many features of it without proceeding in what would be called a proper order. But I, outside of my views on public ownership, would oppose—and I believe the friends of public ownership would oppose—any national incorporation of the railroads, either in one great corporation or in regional corporations. We can imagine the power of a corporation, as has been hinted by Mr. Adamson, with a capitalization that would be probably forty billion, or thirty billion, or, as a witness stated, fifteen billion dollars, and with a revenue of about four billions of dollars—nearly three times, or almost four times, the ordinary revenue of the United States Government.

Why, such a corporation, Mr. Chairman and gentlemen, could crush any individual or any community or any State. It would destroy our Government, and it would bring about an autocracy here, and we would soon have a man on horseback. Its power would be infinitely greater than that of the Steel Corporation, which is located only in one community; but, as such a corporation would have its branches in every community in our States, and as those branches became adepts and experts in controlling public opinion and controlling officials and merchants and all individuals and communities, you can well see the terrible influence it would have. They have made studies of those matters; they have made a science of it. If you read their journals, I believe you will find, taking the Railway Age Gazette, the Electric Railway Journal, and gas journals, and other public-utility journals, that not less than 15 per cent of their space—up to 30 per cent of their space—is devoted to articles dealing with controlling public opinion and controlling of officials, and methods of how to direct public opinion and control the people and increase their revenues and miseducate the people along public-utility lines.

The VICE CHAIRMAN. You mean mold public opinion?

Mr. TROY. Yes; mold. That is a word. They do actually miseducate and practice miseducation of the public; and it would be a most dangerous thing to the liberties of the people of this country to



organize a corporation of that magnitude and that power, with its tentacles out in every district of the country where there is any population.

It would be such a menace to the liberties of the people, to the future welfare of our country, that I could not understand how anyone, who would comprehend what it means, would favor it, and these corporations have proved that they have no regard for the rights of the people. They have no regard for the liberties of the people, and they will destroy or tear down or overturn any law or rule of nature even, or they would overturn the sun and moon and stars, if they could, to accomplish their purpose, solely for the purpose of making money, because that is the only incentive there is behind private operation of a railroad.

For those reasons I think it would be a very exceedingly dangerous thing to have a corporation of that character.

Now, those thoughts come to my mind on this question of taxation. Right at this moment I have been turning them over in my mind to some extent. Take the question of taxation. The railroads, through their continued molding—as the gentleman has expressed it—of public opinion, and the molding of opinions of members of public bodies—let me take your body here, as an example. You gentlemen represent what to-day is probably the most powerful and most exalted body in the world—the most exalted legislative body in the world. You are close to the people. You go to the people to represent them; because by that you study the people and understand them and know what they are entitled to. You know they are entitled to information.

I have here this [exhibiting] as an example. This is a report of your hearings, parts 1 to 10. In that you give a full transcript of all proceedings that have taken place before your committee during the hearings, and you let the public know everything that is done in your committee relating to these matters. Take the railroad commissions and the Interstate Commerce Commission. They keep things secret. They think that the public have no rights at all, and I do not blame them for that. Most men yield to the strongest influences that are brought to bear on them. Sometimes it may be a remunerative influence and sometimes it may be some other character of influence, but they yield to the most powerful influence, and corporations are continually bringing this pressure to bear upon these bodies to prevent the public from knowing anything as to what is going on.

The VICE CHAIRMAN. As far as the Interstate Commerce Commission is concerned, I think it prints as much as the appropriations for that purpose permit them to print.

Mr. TROY. It might as to those appropriations; but they conceal matters deliberately, and, in fact, in violation of the law that has been framed with the assistance of you gentlemen.

Take now, for instance, the present valuation of railroads. They have a branch office here in San Francisco, in the Wells-Fargo Building. I went down there some six months ago seeking to have access—not to any of their private work—but to the inventory of the property of the railroads. I wanted to find out in writing some articles for the press what property certain railroads had. The young man who waited on me was very obliging and a nice young man, but

his orders were that none of it should be given to the public, and he said that I could have the instructions that they had from the commission, and he went to get them and came back and said, no, they thought because of their instructions they could not let me have that even. He gave me, however, a copy of the statute passed by Congress providing for the valuation, and the statute provided that all of the records of that valuation commission should be public; that the public should have access.

**THE VICE CHAIRMAN.** Was that required while it was in the formative stage, in the hands of the clerks? You would have to wait until they completed that work, would you not?

**MR. TROY.** You will see, as I proceed, whether it was required or not. The statute provided that where they wished to prevent the public, if they wished to exercise the power to prevent the public from having access to it, they would have to pass a resolution stating why it was confidential. I wrote the commission, and Commissioner Prouty sent me a letter saying he could not furnish me with that information, not even the Texas Midland valuation.

I will say, however, I wrote to the railroad presidents' association or organization in Philadelphia, and they sent me back a printed copy of the tentative valuation. But I made a further effort to get access to this record of the inventory of the railroads' property through a certain gentleman. A letter was written by the secretary of the Interstate Commerce Commission, Mr. McGinty, saying that while in the field they gave the carrier a carbon copy of the inventory; that as soon as the inventory was placed in the records of their commission then they would not allow anyone to see it, not even the carrier, but the carrier still has the carbon copy and did not need see it in the records. All that did was to prevent the public knowing the inventory, although the railroad corporations knew every item that was in the inventory. That is the way the Interstate Commerce Commission conceals information.

It is the same with this commission. Take the reports of the California commission. We are now discussing questions of railroading and railroads. The railroads are asking for a 15 per cent increase in their freight rates, and it was the most difficult thing in the world to get information from the railroad commission. The commission wants everyone to pay for any report that he may get from the commission, and in addition to that the report for the fiscal year 1914 was issued about January 1, 1916, a year and a half after its date. That is the statistical report of the commission, and the report for the fiscal year 1915, ending June 30, 1915, has not been issued yet. It has not been issued and is nearly two years and a half behindhand, and about a year longer than the previous report had taken, and yet these great questions are coming before the people. The people want to discuss them and the commission will not give them the information to permit them to discuss them. It would seem to me that in one of the articles I wrote Commissioner—I forget his name, but I think he is from Iowa.

**SENATOR CUMMINS.** Commissioner Clark?

**MR. TROY.** Yes; Commissioner Clark—answered it in one of the papers here, saying that the commission gave more information and was freer in giving out information than possibly any other public body. But, gentlemen, if they give out any information it is given

out only at Washington, and you have to go 3,000 miles from San Francisco to get the information. It would seem to me that Congress should compel the Interstate Commerce Commission to make a duplicate or triplicate copy, if necessary, of all their reports that pertain to any railroad in any locality and make the railroads—the Southern Pacific Railroad makes its report to the Interstate Commerce Commission, and it would cost but very little more—filed additional reports, carbon copies or printed copies—because they print them anyway—and file them around the country. In this city is the office of the commission, where they have their examiners going out visiting the railroads, and their valuation office, and they do not have a copy of the report of the Southern Pacific or any other railroad, so that it is impossible for the citizens in San Francisco to secure any information about reports made to the Interstate Commerce Commission for a year and a half or three years after the report is made, except as to the volume or pamphlet that is printed containing data given them by the railroads, but not the full and complete report of the commission.

So, if your committee would recommend to Congress and provide that the Interstate Commerce Commission will be compelled to file in some central location in each district copies of the reports of all the railroads and other corporations that report to it from these districts, then you would enable the public to get some information.

THE VICE CHAIRMAN. You mean furnish to the press in the various localities interested copies of the report?

MR. TROY. I would not put them to that expense, but there ought to be these reports on file at central offices.

THE VICE CHAIRMAN. I mean furnish to the press, not to print them, but to make them available?

MR. TROY. Yes, sir; to anyone who wishes to see them.

I am diverging again from the question of taxation. Now, the railroads, as I say, have perverted the law made by man, by Government, and by your Congress, and they distort even the natural law. They are able to accomplish it through their control of the press. The advertising here in San Francisco, probably with one exception—you can not get any newspaper to publish anything against a railroad, no matter what a railroad may do, and, in fact, the newspapers are aiding the railroad always to steal property from the public. Talk to any editor in San Francisco and he will admit to you that these railroads, through their advertising—yes, not only that, but they use the powers they have to influence banks and merchants of cities, and through the advertising powers of the merchants they control the press in San Francisco and other large centers and distort all news that the people should have relating to these corporations and considering that alone—the way the railroads can accomplish those awfully dangerous things they do now—what could be done by a great, powerful corporation with fifteen to forty billions of dollars of capitalization and four billions of dollars of income? Why, gentlemen, they do anything they pleased. They could destroy our Government overnight.

Here in San Francisco I am told that the Southern Pacific Railroad alone—an advertising man told me this—the Southern Pacific spends at high as \$125,000 a year for advertising in the newspapers. That is, to a large degree, unnecessary, and under governmental ownership you would save that heavy expense.



While the Southern Pacific is subtle in the methods by which it exerts its influence, I am told that the Santa Fe has actually demanded protection from the newspapers for the advertising they get. Yet I will say that the Santa Fe, in many ways, gives better accommodations to the people than the Southern Pacific in the operation of its line. Out in the desert the Santa Fe has better and more stations than anything the Southern Pacific line has anywhere in California. The Southern Pacific gives the people nothing but shacks for stations. It is only through competition that the Southern Pacific is forced to improve its accommodations, and that is a point, gentlemen, that I wanted to make about this matter, namely, that it is a dangerous thing to foster centralization of power under private ownership; that it is only under governmental ownership, when the incentive for profit is removed, that it is safe to permit any centralization of any great service such as a railroad corporation gives.

But, coming again to the question of taxation—you will pardon me. These thoughts go through my mind so that they divert me from the main subject.

THE VICE CHAIRMAN. I infer from what you say that you fear these powerful corporations would have influence enough to secure exemption from taxation?

MR. TROY. They do now. I will show you that right now. Every economist agrees—Adams, Henry George, and others—and every professor of political economy agrees that the owner of the land can not pass on to the consumer the tax that may be levied on that land value. That is accepted by every authority in economics. What is the effect of that, gentlemen? I own some land; that land has a certain value; the State levies a tax upon that value. If the land value has had a rate of capitalization of its assumed income at, say, 5 per cent and the tax is 1 per cent, then the Government has taken from me in taxes 20 per cent of my land values, because I can only get a price in the market for my land on its net income; that is, the gross less the taxes.

But the railroads: what do they do? They have—we presume under the law, and that is another point I want to touch on before your committee; we will presume that is so; it was spoken of here as unearned increment in terminals—they have to get a return on the full land value, and then, in addition to that, the Interstate Commerce Commission and the courts legally exempt and allow them all of the taxes they pay on their land—on their operative land. You can see what that does, gentlemen. It simply gives to the railroads that much more capital value, that you would have to pay them if you took over the railroads. I have not in mind the figures of railroad taxes, but if I recollect correctly, they are about \$200,000,000, and you capitalize that and see what it amounts to—probably \$60,000,000,000 more you would have to pay them for their property than the property is actually worth on the market, putting it on the basis of the market value of other property in the community. You can see the unfairness of the system of taxation as applied to railroads.

The suggestion has been made that there should be some standard or rule by which you could measure the taxes of railroads differently from other people. It seems to me that that idea comes from a misunderstanding or forgetting what the purpose of taxation is. The purpose of taxation is not to take any money from the railroads at

all. That is not its purpose, but it is to sustain the Government. It is to sustain the Government, and for various reasons the expenses of sustaining the Government here in San Francisco might be more than it would be in some other community, and the railroad corporations and every other corporation should pay their fair share of sustaining the Government in that locality, as well as they do in every other locality, and there should not be any measure of taxation applied to them that is different from that applied to every other individual in the community.

I can give you a reason for that. Take, for example, the terminals of the railroad corporations. They are here in this terminal city, in this location. If there was a strike or fire or for any other cause the municipality is required to give them police protection and fire protection and all the other services and advantages that are given to the people in a community by the local government, and in San Francisco to-day we get no taxes on the operative property of the railroads. The system of taxation in California—there is a slight exception to that—under the system of taxation in California the railroads pay a percentage of their revenue to the State government for taxes, but where bonds were issued in any district prior to 1911 at the time of adoption of this system of taxation, then the State government, out of the revenue it receives from the railroads, returns to the local community the amount of that bond tax whatever it may be, but all the railroad pays on its operative property is this percentage of its income.

The figures have not been made public, but our State tax commission has given out figures showing the effect of that upon railroads, and the chairman of the commission, Mr. Seely, permitted me to copy from their records the data. It shows that in three years the steam railroads and street railroads paid over \$4,000,000 less taxes under that system than they would have paid if they were taxed locally in the different communities where the property is located, under the old system, and the electric system paid about a million and a half dollars less. So you can see, by paying a percentage of the revenue as a tax it is entirely unfair and unjust to the people of the community. The railroad corporation does not share its fair percentage of taxation, and then, again, take a railroad going through a community where it simply has its tracks and where it is sparsely settled and may have only one or two stations. They get no police protection from the community and no fire protection and no governmental service is given them at all in those communities; and yet here, in San Francisco, we are compelled to tax ourselves to give them these protections and these services, and they pay to us no taxes at all.

Another feature of that taxation that I would like to call to your attention is this: Under this statute, the railroads, of course, pay this percentage of their revenue as a tax upon their operative property. They class their right of way—and their right of way has been 100 feet, I do not know what it is now; I think it is a little wider now—and other station grounds as operative property, and therefore they pay no taxes upon it, but here in the community is some individual or corporation which has property outside of that right of way. He is paying taxes to the local community on that property, helping to pay the expenses of governmental services in that community.

But let a raisin packer, for example, as I have noticed in the report, or an orange packer, or a hay dealer, or some other industry, come along that wants a location, and the railroad, by the power it has through its transportation facilities, forces that individual to locate upon its right of way or upon its station grounds, renting to him a part of that station ground, and then they return to the assessor simply the area of the station ground or the right of way—if it is 50 by 100 or 200 by 500, as in some cases—as being nonoperative property, when they are getting income from it, and then they pay a tax upon that small portion of that station ground. So they escape taxation entirely until they get revenue from the property, and they throw all the burdens upon the other members of the community, and it is unfair and unjust, and a railroad and every other corporation and every other individual should pay whatever taxes may be laid upon taxable property within a community within which its property is located. The value of the terminals depends largely on the population value in a community. If you take a terminal—some of the terminals down the coast are located on the ocean, where there is no population and simply a wharf, and they are of no value practically—but the community makes the value, and that brings me to the point brought out by Judge Sims, as to whether or not it was fair to levy taxes upon the community value or unearned increment of the terminal site of a railroad, and whether that did not lessen the value or opportunity or resources of the company to give services to the people. The answer to that is that the corporation gets that value. It is added to its property, and if it sells its property it may charge for it. It has acquired that much more wealth, and it is not entitled to that wealth at all.

As a matter of fact—and I think Judge Farrington lays down that principle to some degree in one of his Spring Valley cases he decided back in 1904—that as the property was devoted to a public use that at least, as the judge said, in a rate-making sense, the property was devoted to a public use, and that the corporation was not entitled to any return on the unearned increment on the community's value, but he said—and the courts hold, I believe—that if the corporation sells the property or anybody purchases the property, or if the community should exercise its right of eminent domain and take it away from the corporation, it would have to pay the entire community value, and so the stockholders of the corporation are made that much wealthier because of the community value, and because of that the corporation should be compelled to pay taxes on that community value.

It seems to me that situation is caused by the railroad corporations continually, through the press, hammering at the people and trying to mold—as has been expressed—public opinion along certain lines. They have gotten many people to believe things that are in direct opposition to all natural law and of fact, and it is because of that men unconsciously absorb these erroneous views given out by the railroad corporations, as they are printed and published so widely. They create a public opinion in that way, and it is one of the most dangerous influences exercised on the public mind by these corporations.

I have said more than I intended, gentlemen. I hope I may have an opportunity to prepare something to say to you on Government ownership.



Mr. THOM. I have a question which I should be glad if I could get some attention to by this committee during its sessions here. It relates to section 10 of the Clayton Act. Perhaps it might not be a bad way of managing the situation if the committee would appoint a subcommittee before whom I might bring that matter up.

The VICE CHAIRMAN. Some time before we disperse here I am going to ask the committee to have an executive session to dispose of these matters and perhaps we can hear you then.

Mr. THOM. The suggestion is this: Section 10 of the Clayton Act has been twice suspended by Congress, but the last suspension expires about the 8th of January. It relates to the method of making railroad purchases under certain conditions. We feel in its present shape it is unworkable, and we are asking for an amendment to that section, in no way questioning the principle on which it was founded. I had hoped, as so little time remained for consideration of this before Congress convenes, that possibly this committee could make a recommendation to the Judiciary Committee of the two Houses, which have heretofore handled it, as to the proper way to handle that, whether by amendment or what not. I am ready to propose an amendment.

The CHAIRMAN. Does not that come within the scope of resolution 60?

Mr. THOM. I think so. I should like to have a special report on that before the time limit expires.

The CHAIRMAN. How much time would you require?

Mr. THOM. Oh, not very long. If you can appoint a subcommittee——

The CHAIRMAN. I do not think it is necessary to appoint a subcommittee. We can handle it with the full committee.

(Whereupon, at 5 o'clock p. m., an adjournment was taken until Monday, November 5, 1917, at 10 a. m.)

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#### MONDAY, NOVEMBER 5, 1917.

#### CONGRESS OF THE UNITED STATES, JOINT COMMITTEE ON INTERSTATE COMMERCE, *San Francisco, Cal.*

The joint committee met in the Palace Hotel at 10 o'clock a. m. in pursuance to adjournment, Senator Frank G. Newlands presiding.

The CHAIRMAN. The committee will come to order. Mr. Troy, we will hear from you later. We desire to hear from Mr. Gardiner, who is from Nevada, and who is obliged to leave. I understand you reside here and can wait for the action and the convenience of the committee.

Mr. TROY. Yes, sir.

#### STATEMENT OF WILLIAM M. GARDINER.

Mr. GARDINER. I appreciate the courtesy the committee has afforded me in granting me this opportunity to appear before it and express my views.

I represent, primarily, the Reno Commercial Club, of which I am vice president, and, by special request, the Merchants' Association

of Lovelock, and I also think I may take it upon myself to say I represent the State of Nevada generally, because I believe there is a unified public opinion throughout the entire State on the subject which I am about to present and the views I am going to mention on the subject.

The Railroad Commission of Nevada has been making the fight of the people of Nevada, and the railroad commission will be here later and will present this matter in an entirely different manner and with a great deal more knowledge of the subject and more ability than I can command, but it was thought desirable that there should be at least one representative of the common people of Nevada. The only distinction which I can claim, if any, is that I am a Nevadan by adoption—I am afraid my California friends when they know I am a Californian by birth will think I am a renegade before listening to me very long—I am a Nevadan by adoption and a Democrat by inheritance and, later on, a Democrat by conviction.

When I went to Nevada eight years ago I found in progress there the fight of the people of Nevada for better railroad rates—for railroad rates which were not discriminatory. I found that that fight had been in existence for years, and that same fight is going on now. What I am saying to you gentlemen and am going to say is simply one gun in that fight, and if that gun does make a great deal of noise, remember that the final battle is on now, and that this is only the first gun in a battle, and the first gun in a battle does not count for much. The fight is on, and we are just beginning to fight. I may say we have just begun to fight.

The railroad people started out, so far as I can see, in the determination of railroad rates in Nevada, by charging all that the traffic would bear. I have been unable in my study—and I am sure that the railroad commission will bear me out in saying in their studies, and say that they also have been unable—to find any other logical basis. It is true that there is an excuse—not a reason—that has been given by the railroads, and that excuse is water competition; that the towns on the seaboard, by reason of having communication with the East by water, are entitled to lower and less remunerative rates to the railroads than are the intermediate points, I might say, than the intermountain country.

In the old days the intermediate rate was made of the terminal rate to the coast; that is, on shipments from the coast—made on the terminal rate to the coast plus the local back to the intermediate point, and there arose that famous back-haul charge, which has been the subject of more controversy in connection with railroad rate making than anything else that I know anything about, and I want to say now, in my opinion, that back-haul charge is arbitrary, vicious, unprincipled, and indefensible, and I think an investigation of it will bear that out. It is true that that back-haul charge, as such, has been to some extent eliminated, and it is true that in a great many particulars the rate now in Nevada is somewhat less than the coast trade plus the back haul back, but still it is high enough to prevent our doing legitimate business.

Some time ago in Nevada there was a conversation between a railroad man and a Nevadan and the Nevada man was talking about these discriminatory rates from which we suffer, and the railroad

man began to talk about water competition. It was not long before he was driven into a corner on that, as the railroads have been driven in a corner wherever they have urged that, and even before the Interstate Commerce Commission, and then the railroad man went on to tell how the railroad was a bridge from the Atlantic to the Pacific; it was built for the purpose of connecting the Atlantic and the Pacific, and that the Pacific was entitled to a better proposition than the intermediate points along that bridge, and again the Nevada man drove him into a corner, and finally the railroad man said: "What are you going to do about it?" And that, gentlemen, has been the position and defense of the railroad companies right along to the discriminatory rates which are charged Nevada. In addition to these discriminatory rates on shipments from the East into this intermountain country, there is also a discriminatory rate on shipments from these terminal points eastward into our country. The rates from these terminal points are so little in excess of the rates which are charged for shipments out of Reno, for instance, or out of Spokane, for instance, or some of these other cities, that it makes it practically impossible for any business to be done in a distributing way by any of these intermountain towns. I am going to give just one instance, taken at random, which is borne out by practically all the different commodities subject to railroad transportation. Take one concrete illustration—nails.

The rate on nails from Pittsburgh to San Francisco, with an 80,000-pound minimum, is 75 cents, and the rate on nails from Pittsburgh to Reno on the same minimum is \$1—33½ per cent higher than the rate to San Francisco. The rate to Reno on nails, with a 40,000-pound minimum—and that is more like the minimum which jobbers in that community, if there were any jobbers, would be likely to need—with a 40,000-pound minimum the rate is \$1.17.

MR. SIMS. Where is that last rate from?

MR. GARDINER. From Pittsburgh to Reno, with a 40,000-pound minimum. I forget what the rate from Pittsburgh to San Francisco on a 40,000-pound minimum is, but San Francisco can well take the 80,000-pound minimum. The rate on the 80,000-pound minimum from Pittsburgh to San Francisco is 75 cents.

That is fair enough, but the rate from San Francisco to Winnemucca or Elko on less-than-carload lots of nails is 77 cents; the rate from San Francisco to Reno is 69; the rate from Reno to Winnemucca is 56 cents, and from Reno to Elko is 69 cents. Without bearing those in mind and simply taking the results, San Francisco on that kind of basis can put nails into Winnemucca at 4 cents less than Reno can and into Elko at 17 cents less. You understand that Winnemucca and Elko are points on the Southern Pacific Railroad east of Reno. If San Francisco buys in 80,000-pound lots and we in 40,000-pound lots, then San Francisco can put goods into Winnemucca 21 cents better than we can, and into Elko at 34 cents better.

Look at the geography of the situation a moment. San Francisco is 244 miles from Reno. On the western haul, coming from Reno, there is a summit of 2,500 feet to climb. On the eastern trip going to Reno there is a summit of 7,000 feet to climb. Going from Reno to Elko there is only a summit of 589 feet to climb. Notwithstanding that, the haul from San Francisco to Elko, going over that 7,000-foot summit, is only 8 cents more than the rate charged from Reno to



Elko. The rate from San Francisco to Reno, as I said, is 59 cents. Figured any way a person can figure it, I do not see anything except indefensible discrimination. If the haul from San Francisco to Elko is broken at Reno—that is, if a Reno man orders goods from San Francisco and ships to Elko—the rate that must be paid is \$1.28 on that broken haul from San Francisco to Elko. If the shipment is made from San Francisco direct to Elko it is 77 cents. Gentlemen, if the rate from Reno to Elko is fair, why, then, on the shipments from San Francisco to Elko is San Francisco charged only 8 cents for the haul from San Francisco to Reno with the 7,000-foot summit to cross? That is a haul nearly as far as the haul from Reno to Elko and with a climb twelve times higher than the climb from Reno to Elko. Gentlemen, what is the reason for that? What is the reason for those rates? Do they spell anything except discrimination? In my opinion there is just one answer to that—one answer to these rates—and that is that they are intentionally discriminatory for the purpose of favoring the coast jobbers and for the purpose of making it impossible for any point in Nevada to do any kind of a jobbing business.

It would not be so bad, gentlemen, if the transcontinental rate from the east to Reno were higher than the rate to San Francisco, but they are not satisfied with that. They make then a rate from San Francisco to our natural territory, the effect of which is lower than the rates from Reno out.

If we take the transcontinental rates, or the rate San Francisco is given, we can not do business. If they charged San Francisco on rates into our territory any reasonable sum, anything to give us a fair chance, then the situation would not be so bad, but, gentlemen, they take us and grind us between the upper and nether millstone, and they make it impossible for us to do business, and that is the complaint we have now. The seaboard rate and eastward rate are combined simply for the purpose of discrimination and for the purpose of making it practically impossible to do business.

I have been talking about Reno. Reno, gentlemen, I speak of because I know more about it. The same situation exists all through the State of Nevada and exists through the indulgence of the Interstate Commerce Commission which has not, up to the present time, seen fit to put effective relief rates into operation.

While I am talking for Reno, I do not mean you, gentlemen, to gather for a minute that I want these rates so rectified that Reno alone, in Nevada, will become a jobbing center; that Reno alone will have to pay these lower rates. What I believe is that that whole scheme of a higher charge for a short haul than for a long haul is wrong, and if the rates are rectified and if it makes it possible for Elko, Winnemucca, Ely, and Tonopah, and other towns all to become jobbing centers and work in competition with Reno, it is all right. We are not, in Reno, taking any dog-in-the-manger position. Our position in that commercial club is that we are working, not for the upbuilding of Reno, but for the upbuilding of the State of Nevada. We will get our part when Nevada is built up, but we do not hold any dog-in-the-manger attitude. We do not ask that the rates be so adjusted that some certain communities will be given the opportunity to do all the jobbing business through the entire territory.

That is not our position. It will be the position of some people who will talk to you later on.

Mr. SIMS. I want to ask if I got your rate right—the rate from Pittsburgh to San Francisco—

Mr. GARDINER. I will answer that question, sir, but I want to say that you will find that illustration completely worked out in this little booklet, of which I have some copies here. Probably that would be the best answer I could give. Would you like to have me answer your question now, notwithstanding?

Mr. SIMS. No; this will be satisfactory.

Mr. GARDINER. I want to pause to make some explanations. In speaking of these coast cities—and naturally I mean San Francisco more than anything else when I speak of these rates—I do not want to be unjust nor unfair to San Francisco. I fought the fire with these San Franciscans and fought all the way through it. I was here at that time. I like San Francisco; I rejoice in the way San Francisco has risen from the ashes, but, gentlemen, I do not believe that the attitude of the commercial bodies and big jobbers of San Francisco in asking that these discriminatory rates against the intermountain communities be maintained is the big western attitude or the true attitude of San Francisco and the people. I believe that the people of San Francisco are bigger and better and fairer minded than to ask that they be so favored as to be given the entire Pacific coast business. That is what you are going to be asked by the commercial bodies. They ask that we be discriminated against so that we can not do any business, in order that they may ship into our territory.

Some one may say that it is unfair to disturb conditions which have been built up by reason of these discriminatory rates and that San Francisco has invested large capital in the jobbing business, and that they have their ramifications all through this intermountain country, and that if the rates are changed they will not be able to do business in the same fashion; that the capital can not be utilized in the same way, and because these conditions have existed for years and years and years they ought not to be changed.

Gentlemen, that is the old line of least resistance. "Leave well enough alone, gentlemen; do not disturb things; we have been getting along for years and years, and then some more; we have had no trouble; you are busy with the war. Let this go. You are busy with big things and do not bother yourself with little things like this. Let us alone." That is the talk you will hear; but, gentlemen, I want to say one thing. It is never too late to right a wrong; it is never too late to see that justice is done, and any business which has been built up, any capital which has been accumulated for the purpose of discrimination or of utilizing discrimination for the purpose of doing injustice, is not entitled to any consideration at all. The trusts made the same kind of an argument as that. They said, "We have been getting along all right; we are developing the country; we are distributing the goods; leave us alone." But the antitrust law was passed; and why? Because utilization of large capital in that particular fashion was held to be inimical to the public good; and I say that the utilization of the capital of these people, utilized by reason of these discriminatory rates, preventing the intermountain country from doing business, is all wrong, and

that no consideration should be shown to capital which is exercised and used in that particular sort of fashion.

We control trusts because we consider that they are vicious and undemocratic. Is it not vicious and undemocratic, gentlemen, to give certain particular towns a monopoly of the jobbing business, and to do it through railroad rates continued in force by the Interstate Commerce Commission, even though it has been shown time and time again that they are iniquitous and unjust? What we have, when we come to a final analysis, throughout this western country, is a jobbing trust which is maintained by permission of the Interstate Commerce Commission; and we say, gentlemen, that it is time for Congress to dissolve this jobbing trust.

Gentlemen, I also want to explain that I am not against the railroads. No one, I think, can appreciate any more strongly than I can the truth of the statements which Senator Newlands has been making from time to time in public that railroad companies at the present time deserve consideration. The railroad companies do deserve consideration. Whatever we have in the West we owe to the railroad companies, and now, when the transportation facilities are short and the demands upon them by reason of the war are very great indeed, and when they are clamoring for more cars and locomotives and need more rolling stock, the sympathy of the people ought to be with them; and my sympathy is with the railroad companies, gentlemen, and I say to you, right now, that if it should be necessary in order to help us win this war—if it should be necessary in order to equip the railroad companies with new tracks and new rolling stock and whatever else they need—if it should be necessary to double the transcontinental rates, the intermountain country, as far as I know, would cheerfully pay those double rates, provided all discrimination is taken away. It is the discrimination that we are talking about and fighting.

If we are called on to pay double rates and San Francisco pays double rates, and the rest of the terminal towns pay double rates, we will pay them and will not complain, but we do complain about paying greater rates than the terminal rates, when the haul is so much easier and where the principle underlying them will not bear analysis. We do object to San Francisco being given a lower rate into Nevada, which is an infinitely greater haul than the haul from Reno into the various Nevada points. We are not antirailroad. We are in sympathy with them. A great many of the railroad people are my friends, and I want them to continue to be my friends. I am not talking against the railroads, but I do say, and I say it now, and without going into details I say it, that the people of Nevada are prepared to use every club against the railroads which they can avail themselves of until these discriminatory rates are by, and after the discriminatory rates are by we will cooperate with the railroads in every particular to build up all the country, but we do say that neither the railroads nor the coast cities have any right by reason of discriminatory rates to keep back the people of that intermountain country.

We have about a third to 25 per cent of the area of the whole United States and everybody knows that that area has been kept back in its growth, in its population, in its commercial growth, and



everybody who wants to analyze it down will find it has been kept back by reason of a discriminatory intention to keep it back, participated in by the railroads and their friends at these terminals.

I want further to explain, gentlemen, as you have probably gathered, that our only fight is an ironclad long-and-short-haul bill. We are not particularly concerned, gentlemen, with what other powers you give the Interstate Commerce Commission. We are not particularly concerned with what changes you make in its operations; what centralization or anything else in that line you may do; but I do say, gentlemen, that we have suffered long enough, and I do say that the fourth section of the interstate commerce act should be amended so as to take away from the Interstate Commerce Commission all discretion of any kind and make it obligatory upon railroads to charge no more for a short haul than for a long haul where the short haul is included in the long one and is in the same direction and over the same lines. That is the bill for which we stand and contend.

When it was up before in Congress, there was some doubt expressed as to whether or not it was constitutional, and because there was some doubt expressed then there was an amendment interjected into the bill by which the Interstate Commerce Commission was given permission, in special cases, after a hearing, to allow a greater charge by the railroad companies, and that is the bill which was finally passed. We have had no relief whatever from it. We are willing to take our chances on the constitutionality of an ironclad long-and-short-haul clause. We have appealed to the Interstate Commerce Commission long enough, and now appeal to Congress for something definite and something final which will forever destroy that situation.

Now, gentlemen, the only excuse we have ever heard offered by the railroad companies for charging more for a short haul than for a long haul—an excuse and not a reason—has been tidewater competition.

An element which properly enters into consideration, but has never been made public, is that the railroads consider it is their inalienable right to charge all the traffic will bear. I believe that has a great deal to do with it, but that is kept *sub rosa*—nothing said about it. The real reason which is given is tidewater competition. Gentlemen, water competition against the railroads on shipments from the Atlantic to the Pacific has always been negligible. The Interstate Commerce Commission has repeatedly been forced to find that it was negligible, and in one case found it did not exist at all, and in one case the railroad companies were even forced to admit that never, at any time, have the water rates been taken into consideration by the railroad companies in fixing their transcontinental rates.

Therefore, we have a practically negligible proposition, and when we come right down to it, we find that these rates are merely the granting of a special privilege to a certain special class. The days of special privilege, gentlemen, have passed, and if not entirely passed, are rapidly drawing to their close, and we believe that when this long-and-short-haul bill has finally been put through in its absolute form, that the days of special privileges will be closed entirely.

Now, again, about this water competition. At the time when the back-haul situation was at its halcyon days, I am informed—and what I am about to say I know not of my own knowledge, but it has been told me by a former secretary of the Santa Rosa Chamber of Commerce, and it is substantially true: I may be in error on some figures—but at the time that back haul was in its halcyon days, at the time they were claiming the right to charge the back haul on account of water competition, gentlemen, there were 167 cities and towns, I am informed, in the State of California, all of which were enjoying terminal rates, but not more than a dozen of them were on deep water, by special favor of some kind of the Southern Pacific, which had granted those 167 cities terminal rates when there was no water competition at all in competition with them.

Santa Rosa was not one of those cities granted terminal rates and it protested, claiming San Francisco was discriminated in favor of and against them, and appealed to the Interstate Commerce Commission and the Interstate Commerce Commission found there was discrimination, and the Interstate Commerce Commission said to the railway company, "You must not discriminate against Santa Rosa. Either you must give Santa Rosa terminal rates or take the terminal rates away from all the cities not on deep water." Naturally, the railroad company took the terminal rates from all cities not on deep water, and they must all pay now somewhat higher rates. But the point of it was when they were taxing Nevada that back haul there were 167 cities in California in the same situation getting terminal rates. Does not that situation prove that from the beginning of affairs transcontinental rates were sufficiently remunerative to the Southern Pacific Co., but by some kind of a bling between the Southern Pacific Co. and the jobbers of this part of the country those rates into Nevada and other intermountain States had been kept up. It seems to me it can spell nothing else in that situation. If the transcontinental rates had been brought down by water competition, for what reason under the sun were the 167 other cities in the State of California in the same category as Reno given terminal rates? Does it not prove that the transcontinental rate was reasonable? Does it not prove that it gave the railroad companies adequate compensation?

Gentlemen, if water competition, the excuse offered by the railroad companies, ever does arise; if there ever comes a time when water competition does exist against the railroad companies, then, if the principles which the railroad companies insist upon are applied to rate making, what will be the result? The result will be that the water rates will be lower than the transcontinental rates are at the present time, and that the railroad companies will claim the right to make their terminal rates as low or lower than the water rates, and to raise the intermountain rates correspondingly higher, and as the water rates go lower they will claim the right to increase and again increase the intermountain rates. That is the principle of the thing in the last analysis—tax the intermountain country to enable the railroad companies to stifle water competition. That is the result of being allowed to charge a greater rate for the short haul than for the long haul; give the coast people lower and continually lower rates as water competition increases and squeeze the mountaineers. The poor mountaineers in this situation are like the common people

made famous in Homer Davenport's cartoons in the press when he was cartooning the trusts. Of course, raise railroad rates to the mountaineers and lower them to the coast, and if water competition comes along it will be necessary to apply to the Interstate Commerce Commission to get the right to raise those rates, but if you will read the dealings of the Interstate Commerce Commission with these railroads you will see that the railroads will not have much trouble in getting the right to make further discriminatory rates, if water competition exists, because the Interstate Commerce Commission has taken up in a very serious fashion this question of water competition and discussed it from one side to another, but if they come out and find the facts they will find water competition has never been anything at all that was taken into consideration in the fixing of rates.

But, is water competition a fair element to take into consideration even if it should exist, as far as the intermountain rates are concerned? Why was the canal built? Was the canal built to work a hardship upon the people of the intermountain country; was it built to work a hardship upon any people in this country? I say most emphatically, no. The Government must have built that canal because, aside from war purposes, it believed that there were certain commodities which could be hauled more properly from the Atlantic coast to the Pacific coast by water than rail, because it knew that the railroads were congested, and because it knew they had more than they could take care of, and they knew that if certain commodities were to be allowed to be shipped by water the people of the Nation could get these commodities at a less rate and that it would undoubtedly disturb the railroad companies. Now, whenever that canal is in shape and whenever the shipping is in shape so that it can be utilized to go through the canal, are the railroads to be allowed to decrease their continental rates so as to stifle and shut off water competition? If that is the case, then for heaven's sake, gentlemen, why was the canal built? It was built to give lower rates, and if the railroads are to be allowed to give lower rates in competition with it and shut off the water competition and charge us in the intermountain country more to make up for that, what kind of business is the Government in? It has taken our money in the intermountain country as well as other money to build the canal, and the whole effect is going to be, ultimately, to increase our taxes by reason of increased charges in freight, if the principle laid down by the Interstate Commerce Commission is something that is to be allowed to continue to exist.

Gentlemen, if you think I have misquoted the Interstate Commerce Commission, then read the opinion of the Interstate Commerce Commission rendered on June 30 on these intermountain questions, and ask yourself, is the Interstate Commerce Commission going to be permitted to frustrate the purpose of the Government in building this canal?

Mr. SIMS. What case is that you refer to?

Mr. GARDINER. That is the intermountain cases.

Mr. SIMS. That decision was rendered June 30 of this year?

Mr. GARDINER. Yes, sir; I have it here. It is the opinion on the reopening of the fourth section, application 205, etc., on transcontinental rates. It is the opinion of June 30.

The CHAIRMAN. Is that a long opinion?



Mr. GARDINER. It is a rather long opinion.

Mr. SIMS. Is it exhaustive?

Mr. GARDINER. Very exhaustive.

Mr. SIMS. I suggest that it be made a part of your hearing.

Mr. GARDINER. I shall be glad to put it in the hearings.

(The opinion referred to is here printed in full, as follows:)

REOPENING OF FOURTH SECTION APPLICATIONS NOS. 205, ETC.<sup>1</sup>

TRANSCONTINENTAL RATES.

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*Submitted April 5, 1917. Decided June 30, 1917.*

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1. Existing water competition found to be a negligible factor in affecting the rates by rail between Atlantic and Pacific coast terminals.
2. Rates on commodities from eastern defined territories to Pacific coast terminals lower than the rates on like traffic to intermediate points found not justified under existing circumstances.
3. Present effective rates on certain specified commodities from all eastern defined territories to Pacific coast terminals found not unreasonably low and not to have been induced by water competition.
4. Present effective rates on other commodities in schedules B and C found, as a whole, unreasonably low from territories east of the Missouri River to Pacific coast terminals.
5. Rates on barley, beans, canned goods, asphaltum, dried fruits, and wine from Pacific coast ports via rail-and-water routes through Galveston to the Atlantic seaboard should be revised to accord with the requirements of the long-and-short-haul clause of the fourth section.

*H. A. Scandrett, Charles Donnelly, F. V. Brown, T. J. Norton, F. D. Burroughs, John F. Finerty, and F. H. Wood* for petitioners and respondents.

*F. A. Jones* for Arizona Corporation Commission and Interior Counties Freight Bureau of Southern California.

*Frank Lyon* for American-Hawaiian and Luckenbach steamship companies.

*Clifford Thorne* for Iowa State Board of Railway Commissioners.

*Oscar L. Owen* for New Mexico State Corporation Commission.

*F. W. Dougherty and J. J. Murphy* for state of South Dakota and South Dakota Railroad Commission.

*Joseph N. Teal and William C. McCulloch* for Portland Traffic & Transportation Association.

*H. C. Barlow* for Chicago Association of Commerce.

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<sup>1</sup> This report embraces also the reopening of Fourth Section Applications Nos. 342, 343, 344, 349, 350, 352, and 10336, respecting commodity rates from eastern defined territories to Pacific coast terminals and intermediate points; the reopening of Fourth Section Applications Nos. 9813, 10110, 10126, 10135, 10186, and 10189, respecting rates on barley, beans, canned goods, asphaltum, dried fruits, and wine from California ports and intermediate points by rail-and-water routes through Galveston to the Atlantic seaboard; Docket No. 9258, Commercial Club of Kansas City, Mo., v. Atchison, Topeka & Santa Fe Railway Company et al.; and Docket No. 9278, Arizona Corporation Commission v. Atchison, Topeka & Santa Fe Railway Company et al.

*Seth Mann* for San Francisco Chamber of Commerce.

*J. B. Campbell* for Spokane Merchants' Association and Spokane Chamber of Commerce.

*N. L. Moon* for Alan-Wood Iron & Steel Company.

*Wilmer M. Wood* for United States Cast Iron Pipe & Foundry Company and American Cast Iron Pipe Company.

*C. H. Reigart* for American Iron & Steel Manufacturing Company.

*Raymond Marsh* for American Washing Machine Manufacturers' Association.

*R. P. Smith* for Automatic Sprinkler Company of America.

*Herbert Sheridan* for Canned Goods Exchange of Baltimore and National Cannery Association.

*John B. Rucker* for Baton Rouge Chamber of Commerce.

*J. H. McCumney* for Boston Woven Hose & Rubber Company.

*George A. Page* and *Walter Engels* for Borden's Condensed Milk Company.

*H. C. Crawford* for Cambria Steel Company.

*W. D. Emil* for T. A. Snyder Preserve Company.

*Martin Van Persyn* for Wholesale Grocers' Exchange of Chicago and Sprague, Warner & Company.

*C. L. Lingo* for Inland Steel Company.

*Ward Wise* for Mark Manufacturing Company.

*Luther M. Walter* for Morris & Company and Wilson & Company, Incorporated.

*I. I. Bloom* for Coast Products Company.

*E. E. Bockstedt* for Columbian Rope Company.

*R. L. Hearon* for Colorado Fuel & Iron Company.

*F. W. Maxwell* for Denver Transportation Bureau.

*G. Roy Hall* for Commercial Club of Duluth, Rust-Parker Company, and Gowan-Lenning-Brown Company.

*C. F. Rowe* for Marshall-Wells Hardware Company.

*James E. Needham* for Electric Hose & Rubber Company.

*C. C. Crouse* for F. W. Fitch Company and various members of the Iowa State Manufacturers' Association.

*E. K. Prickett* for Macy Company and Office Equipment Traffic Association.

*Edward C. Rentz* for Globe-Wernicke Company and Office Equipment Traffic Association.

*W. F. Price* for J. B. Williams Company.

*W. P. Tingley* for Chamber of Commerce of Huntington, W. Va., Hague-Ratcliff Company, Schon-Stevenson Company, and other companies.

*C. A. Rosemond* for Illinois Wholesale Grocers' Association.



*F. A. Ogden* for Jones & Laughlin Steel Company.

*S. J. Bolton* for Chamber of Commerce Traffic Bureau of La Crosse, Wis.

*W. E. Howes* for Lackawanna Steel Company.

*H. L. Burch* for Board of Commerce of Lexington, Ky.

*W. A. Ensten* for Ludlow Valve Manufacturing Company.

*H. M. Zook* for Lukens Iron & Steel Company.

*Bates Lowry* for Lunkenheimer Company.

*C. C. Ward* for Michigan Wholesale Grocers' Association and Indiana Wholesale Grocers' Association.

*Frank Barry* for Merchants & Manufacturers' Association of Milwaukee.

*T. M. Henderson* for Traffic Bureau of Nashville, Tenn.

*J. F. Townsend* for National Tube Company.

*R. A. Van Kirk* for National Varnish Manufacturers' Association.

*William H. Day* for New England Shoe & Leather Association, Essex County Associated Boards of Trade, and Lynn Chamber of Commerce.

*J. H. Moyle* for McClintic & Marshall Company.

*J. M. Bomgardner* for John A. Roebling's Sons Company.

*J. P. Olney* for National Canners' Association, New York Canners' Association, and Rome Chamber of Commerce.

*Clarence Watkins* for Paint Manufacturers' Association of the United States.

*Charles Dushkind* for Tobacco Merchants' Association of the United States.

*W. S. McCarthy, S. H. Love, and H. W. Prichett* for Traffic Bureau of Utah.

*L. F. Berry* for Reid, Murdoch & Company.

*F. R. Levins* for Rust-Parker Company.

*S. J. Wettrick* for Transportation Bureau of Seattle Chamber of Commerce.

*J. E. Henry* for Standard Sanitary Manufacturing Company.

*A. F. Versen* for Business Men's League of St. Louis.

*George F. Hichborn* for United States Rubber Company.

*Francis J. Rickert* for Wisconsin Wholesale Grocers' Association.

*J. E. Bryan* for Wisconsin Traffic Association.

*A. T. Cobb* for Yawman & Erbe Manufacturing Company and Office Equipment Traffic Association.

*R. D. Sangster* for Commercial Club of Kansas City.

*E. H. Hoqueland* for Topeka Traffic Association.

*Charles S. Belsterling* for National Tube Company, American Bridge Company, American Sheet & Tin Plate Company, and Illinois Steel Company.

*W. H. Titus* for Cluett, Peabody & Company.

*F. T. Bentley* for Illinois Steel Company and Minnesota Steel Company.

*A. B. Caswell* for Milwaukee Tanners' Freight Bureau.

*H. F. Bartine, J. F. Shaughnessy, Geo. B. Thatcher,* and *W. H. Simmons* for Railroad Commission of Nevada.

*A. P. Ramstedt, Leonard Way,* and *A. L. Frechaver* for Public Utilities Commission of the State of Idaho.

*George B. Graff* for Boise Commercial Club.

*C. T. Helpling* for Chamber of Commerce of Long Beach, San Diego, San Pedro, and Wilmington, Cal., Santa Ana Merchants & Manufacturers' Association, and Savage Tire Company.

*W. H. Metson, Malcolm A. Coles,* and *Frank Van Sant* for Independent Wine Shippers of California.

*Charles Clifford* and *Malcolm A. Coles* for Retail Dry Goods Association of California.

*Charles Clifford* for C. C. Morse & Company, Pacific Hardware & Steel Company, William Wrigley, jr., Company, and other companies.

*L. R. Bishop* and *H. M. Wade* for Buckingham & Hecht, Dolliver & Brothers, and others.

*W. D. Wall* for San Jose Chamber of Commerce.

*G. J. Bradley* for Merchants & Manufacturers' Association of Sacramento.

*Stanley E. Semple* for Stockton Traffic Bureau.

*E. P. Gregson* for Associated Jobbers of Los Angeles and Los Angeles Chamber of Commerce.

*George N. Hoodenpyl* for city of Long Beach.

*Frank M. Hill* for Fresno Traffic Association.

*R. E. Allen* for R. E. Allen.

*Jay W. McCune* for Traffic & Transportation Bureau of Tacoma Commercial Club and Chamber of Commerce.

*Edward M. Cousin* for Willamette Valley & Southern Oregon shippers.

*E. S. De Pass* for Carnation Milk Products Company.

*C. W. Fulton* for port of Astoria, Oreg.

*J. H. Lothrop* for Portland Traffic & Transportation Association.

#### REPORT OF THE COMMISSION.

##### BY THE COMMISSION:

In *Reopening Fourth Section Applications*, 40 I. C. C., 35, we found that the existing competition by water at the time the report was made, June 5, 1916, between the Atlantic and Pacific coasts

of the United States, did not justify the relationship of rates then existing. We also found that the maintenance of these low rates on the schedule C commodities named in *Commodity Rates to Pacific Coast Terminals*, 32 I. C. C., 611, and the maintenance of the rates on barley, beans, canned goods, asphaltum, dried fruits, and wine from California ports, via rail and water, through Galveston to the Atlantic seaboard, while higher rates were maintained to or from intermediate points, had the effect of unduly preferring the coast points and unduly prejudicing intermediate points. Orders were entered requiring the carriers, on or before September 1, 1916, to readjust the rates on the schedule C commodities in accordance with the terms of our order in *Commodity Rates to Pacific Coast Terminals*, *supra*, respecting schedule B commodities. The relief orders which had been issued to the carriers respecting the rates on barley, beans, canned goods, asphaltum, dried fruits, and wine from California ports to Atlantic ports were rescinded, effective September 1, 1916.

Pursuant to these orders, new tariffs were filed, effective September 1, 1916, containing rates purporting to be in accordance with the requirements of the orders. The new tariffs contained many increases in the rates to the Pacific coast on the schedule C items, and in the rates on the California products from California ports to the Atlantic seaboard. Protests were filed with the Commission on behalf of a large number of shippers and receivers of freight, representing many localities in that portion of the United States lying east of the Missouri River, and localities on or near the Pacific coast. It was strongly urged that the marked increases brought about in these rates would be destructive of certain industries, and would result in material losses on account of unfilled contracts, and that some of the new rates were unjust and unreasonable in and of themselves. The Commission thereupon suspended the new rates until December 30, 1916.

On September 9, 1916, the Merchants' Association of Spokane, Wash., filed a petition, alleging that there was not at that time and had not been since April 5, 1916, any water competition whatever between the Atlantic and the Pacific coasts of the United States, and that there existed no justification for the maintenance of lower rates from eastern defined territories to the Pacific coast than to intermediate points. The petition requested us to reopen the fourth section applications relating to rates from eastern defined territories to the Pacific coast and intermediate points, and after hearing and investigation to make such new or amended order relating to these rates as the conditions shown might justify.



On October 17, 1916, by appropriate order, we reopened all of the fourth section applications relating to the rates on commodities from eastern defined territories to Pacific coast ports and intermediate points, and all of the applications respecting rates on barley, beans, canned goods, asphaltum, dried fruits, and wine from California ports to Atlantic ports.

We also assigned for hearing, in connection with the above-described fourth section applications, Docket No. 9258, *Commercial Club of Kansas City, Mo., v. Atchison, Topeka & Santa Fe Railway Company et al.*, and Docket No. 9278, *Arizona Corporation Commission v. Atchison, Topeka & Santa Fe Railway Company et al.* Hearings have been held at Chicago, Ill., Salt Lake City, Utah, San Francisco, Cal., Portland, Oreg., and Spokane, Wash.

The rates stated herein are in cents per 100 pounds.

Prior to the hearings the carriers sought and obtained authority to cancel the suspended tariffs and to publish in lieu thereof new tariffs containing more moderate increases to and from Pacific coast points. These new tariffs were filed to become effective December 30, 1916, on statutory notice, and had the effect of increasing the rates on all the schedule C items from nearly all eastern defined territories to the Pacific coast ports by 10 cents in carloads and 25 cents in less than carloads. No increases were made in the rates to intermediate points in any instance in which the resulting rate would be higher than the rate to the Pacific coast ports. The new tariffs also had the effect of increasing by 10 cents the carload rates on barley, beans, canned goods, asphaltum, dried fruits, and wine from California ports via rail-and-water routes through Galveston to the Atlantic ports, and also of increasing the all-rail rate on canned goods from California points to eastern defined territories from 62½ cents to 72½ cents. The effective date of some of the eastbound rates was subsequently postponed by the carriers until March 1, 1917.

The complaint in No. 9258 puts in issue the relation between the rates on commodities to intermountain points from Kansas City as compared with the rates contemporaneously maintained on the same articles from points east of the Missouri River, complainants asserting that the present differences, particularly on items contained in schedule B, are less than they reasonably should be, and subject Kansas City and its shippers to undue prejudice and disadvantage in attempting to supply the intermountain region with manufactured articles.

The complaint of the Arizona Corporation Commission, No. 9278, puts in issue the reasonableness of the rates on commodities from certain eastern territories to Arizona points, as compared with the rates to Pacific coast cities.

## THE SITUATION AS TO WATER COMPETITION.

The following figures respecting the ships and tonnage moving via the Panama Canal between the Atlantic and Pacific coasts are said to have been taken from the Canal Record:

	Westbound.		Eastbound.	
	Num- ber of ships.	Tonnage.	Num- ber of ships.	Tonnage.
Aug. 14, 1914, to June 30, 1915.....	172	951,044	163	895,614
June 30, 1915, to June 30, 1916.....	52	227,103	41	217,285
June 30, 1916, to Nov. 11, 1916.....	8	26,223	10	12,935

The evidence showed that two Pacific Coast Steamship Company steamers sailed from San Francisco for Atlantic ports during the latter part of August, 1916; that two American-Hawaiian steamers passed through the canal with eastbound cargoes in recent months, and that two steamers sailed from New York for the Pacific coast in July and one in October, 1916. One steamer reached Charleston, S. C., in September, 1916, carrying 17,000 barrels of flour from north Pacific coast points. There are statements in the record of other sailings and expected sailings, but the table of tonnage moved from June 30 to November 11, 1916, shows that this movement is slight and the evidence indicates that the movement has been irregular and uncertain. Much has been said in the record respecting prospective water competition between the two coasts. A most significant thing about the prospective water competition is the enormous increase in shipbuilding at the various ports of the United States.

A statement offered in evidence on behalf of Pacific coast cities, compiled from data gathered from marine engineering publications, purported to show that on October 2, 1916, there were building in the various shipbuilding plants of the United States a gross tonnage of vessels of all descriptions approximating 1,600,000 tons. Of this tonnage, 40 vessels of American ownership, with a gross tonnage of 165,046 tons, were being built at shipyards on the great lakes, and 7 vessels, with a gross tonnage of 19,000 tons, for which the ownership is not shown, were also being built at these shipyards. Ninety-four vessels of American ownership, with a gross tonnage of 372,665 tons, were under construction on the two coasts of the United States, and 29 vessels, with a tonnage of 123,555 tons, were also under construction in the same shipyards, but the ownership of these vessels is not shown. An extract offered in evidence, taken from the consular and trade reports on November 18, 1916, showed

steel merchant vessels, building or under contract in American shipyards on November 1, 1916, according to shipbuilders' returns to the Bureau of Navigation, Department of Commerce of the United States, numbering 417 vessels of 1,479,946 gross tons. During October, 1916, American shipyards are said to have finished 17 steel merchant vessels of 52,941 gross tons and made new contracts for 17 steel merchant vessels of 77,877 gross tons. It is stated that there were under contract in American shipyards on November 1, 1916, 314 merchant vessels of 960,899 gross tons, which the builders expected to launch on or before June 30, 1917. How many of these are of American ownership or for what service each is designed it is not possible to determine from the facts before us.

It is clear, however, that the present service by water between the two coasts of the United States is infrequent, sporadic, and irregular. It is inferable that the great shipbuilding program now being carried forward in the shipbuilding plants of the United States will result in bringing into this coast to coast trade a number of ships in the not distant future. Testimony on behalf of the merchants on the Pacific coast showed their disposition and capacity to organize and equip steamship lines for this business in the event of radical increases in the rail rates between the two coasts. It was stated that in 1893 the North American Navigation Company was organized under guaranties of the merchants of San Francisco. Ships were acquired and put in operation, with the result of bringing about marked reductions in the then existing rail rates between the two coasts.

The present situation, however, as to the water competition is beyond dispute. There is no existing competitive necessity by reason of water service between the two coasts which warrants the rail carriers in maintaining under present circumstances lower rates to the Pacific coast than are normal and reasonable or lower than to intermediate points.

#### ATTITUDE OF THE RAIL CARRIERS.

The rail carriers are before us in this proceeding seeking authority to continue lower rates on a large proportion of all commodities to the Pacific coast than to intermediate points and lower rates from the Pacific coast via rail-and-water routes through Galveston on a limited list of commodities than are applied from or to intermediate points. It is urged that the ability of the boat lines to establish and maintain rates on certain of these commodities between the two coasts that are far below the level of normal rail rates on the same traffic has been amply demonstrated by the rates maintained during the first year the Panama Canal was in operation, of which the following are representative examples:



	High- est rate applied by boat lines.	Low- est rate applied by boat lines.		High- est rate applied by boat lines.	Low- est rate applied by boat lines.
EASTBOUND.			WESTBOUND—continued.		
Asphaltum.....	35	25	Pipe fittings.....	50	40
Barley.....	40	30	Wrought-iron pipe.....	45	30
Beans.....	40	30	Plate and sheet No. 11 and heavier.....	50	25
Canned goods.....	40	30	Plate and sheet Nos. 12 to 16.....	60	25
Dried fruit (in boxes).....	45	40	Shoes, horse, mule, or ox.....	45	25
Dried fruit (in sacks).....	50	40	Lye, concentrated.....	50	40
Wine:			Oilcloth and linoleum.....	70	50
In barrels.....	33	30	Paint in oil.....	60	50
In glass.....	35	30	Paint, dry.....	60	50
WESTBOUND.			Pulpboard boxes.....	70	50
Calcium chloride.....	45	30	Book paper, surface coated.....	55	50
Canned goods.....	55	50	News print paper.....	50	50
Green coffee.....	55	45	Building paper.....	50	50
Structural iron.....	45	25	Potassium cyanide.....	70	55
Bars, rods, etc.....	45	25	Soap.....	50	40
Bolts, nuts, washers, etc.....	45	25	Bicarbonate of soda.....	50	40
Chain.....	55	40	Twine and cordage.....	60	50
Nails, spikes.....	45	25	Wire rope and cable.....	70	50
Wire fencing, wire nails, and wire, plain or barbed.....	60	40	Electric light cables.....	65	50

It is stated that it has been demonstrated that the boat lines can make and have made rates between the coasts very much below any scales of rates which we could require the rail carriers to maintain, and these carriers now urge their right to maintain such an adjustment of rates as will keep their lines in an attitude of preparedness for the boat competition which sooner or later may be expected again to develop. It is earnestly urged that if the carriers under present circumstances are required to readjust their rates between the two coasts to a level not lower than the rates to or from intermediate points, the water lines, when the boats return to the service, will establish rates at a level that will take the traffic away from the rail lines. An application on behalf of the railroads for relief from the provisions of the fourth section as to these rates must be supported by competent proof as to the then existing competition by water alleged to make necessary the relief sought. In the natural and orderly course of procedure, several months may elapse between the time when the water competition manifests itself and the time when the rail carriers can make effective such rail rates as are necessary to meet this competition.

It is asserted that no sooner would these rates be established than the boat lines would make a further reduction sufficient to secure the traffic, whereupon the rail lines would find it necessary to make a second application involving further time during which the rail lines would be deprived of the traffic. This process might have to be repeated several times before the rates reached a level as low as the boat lines cared to make them. The objection to this course of procedure is that the rail lines would be obliged to lose the traffic

to the boats before being able to present convincing proof of the necessity for reducing the rail rates. The situation is compared with that of a merchant who is obliged to lose his business to his competitor before being able to take the proper measures to meet that competition. It is urged that a railroad should not be required to sit supinely by and see its traffic taken away before being able to take proper measures for its retention.

The carriers have framed and urged the following rules which they assert should govern us in granting relief from the long-and-short-haul rule of the fourth section:

Rule 1. Carriers shall be required to show—

(a) That proposed rates to or from the more distant points are necessitated by conditions which have not been created by the applicant carrier, are less than reasonable, and are subnormal.

(b) That such rates yield revenue in excess of the actual cost of handling the traffic upon which they are to apply, thereby adding something to the net revenue and avoiding any increased burden upon intermediate points.

Rule 2. Relief shall be granted the carriers to meet not only actual sea competition, but also potential competition which has been previously manifested and the facilities for which are still in existence although dormant at the time of the application or the hearing thereon.

Rule 3. The actual movement of a commodity by water shall determine whether it is susceptible to sea competition.

Rule 4. Rates between Atlantic or Gulf ports and Pacific ports shall be authorized which are the practical equivalent of the rates by sea, taking into account the relative cost and disabilities, i. e., accomplishing a fair equalization of the rates. The rates at intermediate points to be considered separately and without relation to the terminal adjustment.

Rule 5. Rates between interior points of origin in eastern defined territory and Pacific coast terminals shall be whatever is determined necessary to enable carriers to obtain or hold a fair proportion of the traffic, taking into consideration—

(a) The rates from principal points of origin via sea routes to destination ports;

(b) The additional charges incident to water transportation;

(c) A fair allowance for the intangible difference, if any, due to superior service;

(d) Competition of carriers from other points of origin, the rates at intermediate points to be considered separately and without relation to the terminal adjustment.

Rule 6. When the carriers shall have fully supported their fourth section applications as contemplated by the preceding rules, the Commission shall exercise the authority delegated by the fourth section to authorize the carrier to "charge less for longer than for shorter distances," and "from time to time prescribe the extent to which such common carrier may be relieved," by considering what rates in fact are justified and fixing in the determination of all applications the specific rates which shall be authorized to meet water competition without affecting the rates at intermediate points, except that the carriers shall not be permitted to exceed the combination of the authorized rate to the port plus full local rate thence to interior destination.

Paragraphs (a) and (b) of rule 1 are in accord with principles stated and applied by us in *Fourth Section Violations in the Southeast*, 30 I. C. C., 153.

Rule 2 is of more doubtful character as a principle of action. A water service which for one cause or another has been abandoned may have been effective at some period in the past in reducing rail rates to a level lower than they otherwise would have been, but there may not be at present any likelihood of the restoration of that service although some of the facilities for the service are still in existence. The maintenance of lower rates under these circumstances to the more distant than to intermediate points may not be justified, although the lower rate when established was necessitated by the competition then existing and the higher rates to intermediate points are not unreasonable. There are so many varying circumstances which apply to situations of this kind that we are unable to subscribe to rule 2 as a fixed rule of action. We can see no reason to object to rule 3 or to rule 4 except in so far as rule 4 requires the separate consideration of intermediate and terminal rates. The business of a carrier can not usually be so separated into two parts. While it is obviously unfair to adopt the rate made to a competitive point reduced below a reasonable basis by necessity as the standard by which to measure rates to points where such necessity does not exist, it is not unfair to regard both rates to intermediate and depressed rate points together as parts of one system of rates.

It is argued by many representatives of intermediate points that carriers and this Commission should regard deviations from the fourth section as unnatural, only to be permitted where the circumstances make them necessary in order to permit free competition. A similar qualification, to wit, that rates to and from intermediate points may be reasonably adjusted as between these points and water competitive points should be applied to paragraph (d) of rule 5, and the concluding phrases of rule 6; in other words, we construe it to be our duty in acting under that clause of the fourth section which permits us "from time to time to prescribe the extent to which such common carrier may be relieved" to weigh the claims made as to the necessity for the lower rate at the more distant point, and to determine whether the rate so necessitated is in fact substantially lower than is reasonable under the transportation conditions existing. The rates to intermediate points must also be scanned at the same time to determine whether or not they are higher than the rates on the same or other similarly situated lines for like distances. It will not be possible always to reach a judgment as to the exact measure of the rates that should be applied to intermediate points, but it is possible to put such reasonable limitations upon



these rates that, considering terminal and intermediate rates together, glaring discrepancies will be avoided and all apparently undue discriminations will be prevented. This has been our conception of our power and duty under the law, and we have endeavored to act accordingly in our previous reports concerning these transcontinental rates in so far as the records furnished a basis. *Railroad Commission of Nevada v. S. P. Co.*, 21 I. C. C., 329; *City of Spokane v. N. P. Co.*, 21 I. C. C., 400; *Commodity Rates to Pacific Coast Terminals, supra*; *Rates on Asphaltum, Barley, Beans, and Canned Goods*, 33 I. C. C., 480.

The carriers have furnished an exhibit of carload and less-than-carload rates on approximately 200 commodities, contrasting the present rates to Spokane, Reno, and Phoenix with what are called projected rates to these points. These projected rates are obtained in the following manner: In *Commercial Club, Salt Lake City, v. A., T. & S. F. Ry Co.*, 19 I. C. C., 218, we prescribed reasonable maximum class rates and maximum rates upon a large number of commodities from Chicago, Mississippi River, and Missouri River territories to Salt Lake City. In *Class and Commodity Rates to Salt Lake City*, 32 I. C. C., 551, we found that the carriers had justified certain increases in some of these class and commodity rates. In *Railroad Commission of Nevada v. S. P. Co.*, 19 I. C. C., 238, and in *Maricopa County Commercial Club v. S. F., P. & P. Ry. Co.*, 19 I. C. C., 257, we prescribed reasonable maximum class rates from transcontinental groups A-J to Nevada points and to Phoenix, Ariz. In *City of Spokane v. N. P. Ry. Co.*, 19 I. C. C., 162, we prescribed reasonable maximum class rates from Chicago, Mississippi River, and Missouri River territories to Spokane. In *Kindel v. N. Y., N. H. & H. R. R. Co.*, 15 I. C. C., 555, and *Colorado Mfrs. Asso. v. A., T. & S. F. Ry. Co.*, 28 I. C. C., 82, and 29 I. C. C., 544, we prescribe reasonable maximum class rates on the first five classes from Denver to the Mississippi River and to Chicago and from the Missouri River to Denver, and commodity rates on 83 carload commodities from Chicago, Mississippi River, and Missouri River territories to Denver. As the result of these decisions there now exist sets of class rates from various eastern territories to Denver, Salt Lake City, Reno, Phoenix, and Spokane which have been established pursuant to our orders.

There are also commodity rates from Chicago, Mississippi River, and Missouri River territories to Denver and Salt Lake City prescribed or authorized by us. The carriers have computed the projected commodity rates to Reno, Phoenix, and Spokane in two ways: First, they have taken the commodity rates to Salt Lake City, approved by us in *Class and Commodity Rates to Salt Lake*

*City, supra*, and computed from them commodity rates to Reno, Phoenix, and Spokane which bear the same proportion to the commodity rates to Salt Lake City that the class rates to the three cities named bear to the Salt Lake City class rates; and, second, computation has been made using the commodity rates to Denver as a base and computing the commodity rates to Reno, Phoenix, and Spokane by multiplying the Denver rates by the percentage which the class rates to Reno, Phoenix, and Spokane bear to the class rates to Denver. The results may be illustrated as follows: The class rates from Chicago to Reno, Spokane, and Phoenix are approximately 116½ per cent of the class rates from Chicago to Salt Lake City and 184 per cent of the class rates from Chicago to Denver. The commodity rate on structural iron or steel from Chicago to Salt Lake City is 82 cents, to Denver 57½ cents. Of 82 cents 116½ per cent is 95 cents, and 184 per cent of 57½ cents is \$1.06, while the maximum rate authorized by Fourth Section Order No. 124 to these three cities is 90 cents.

On nails and wire the rate from Chicago to Salt Lake City is 79 cents, to Denver 61 cents. One hundred and sixteen and one-half per cent of 79 cents is 92 cents, and 184 per cent of 61 cents is \$1.12, while the maximum rate authorized to these cities is 90 cents. The rate on soap from Chicago to Salt Lake City is 90 cents, to Denver 67 cents, and to Reno 95 cents. The rate on building paper from Chicago to Salt Lake City is 80 cents, to Denver 53 cents, to Reno 90 cents. It will be seen that in the instances cited the rates projected to Reno, Phoenix, and Spokane by using either the commodity rates established by the Commission to Denver, or the rates so established to Salt Lake City, as bases, result in rates to Reno, Phoenix, and Spokane materially higher than the rates now existing at those points. Examination of the rates on the approximately 200 commodities shown in the carriers' exhibit discloses that in about 95 per cent of the rates shown were the rates on commodities to Reno, Phoenix, or Spokane constructed by multiplying the commodity rates to Salt Lake City by the percentage which the class rates to Reno, Phoenix, or Spokane bear to the class rates to Salt Lake City, the resulting rates to the three cities named would be materially higher than the maximum rates now applied at these points as the result of restrictions prescribed in Fourth Section Order No. 124. This exhibit is offered by the carriers for the purpose of showing that the territory intermediate to the Pacific coast cities is now enjoying a lower level of rates on most of the commodities of eastern origin than they could reasonably hope to secure upon the basis of their geographical position with respect to other points to which we have established rates upon the basis of reasonableness.

## WESTBOUND COMMODITY RATES.

The present commodity rates from eastern defined territories to the Pacific coast are divided into three groups, which have been known under the designations of schedules A, B, and C. Schedule A includes commodities which either are not adapted to water transportation or which originate in territory so far removed from the Atlantic seaboard as to make their transportation by water unlikely. This list includes about 100 items, among which are the following: Threshing machines, agricultural implements, vehicles, many furniture items and fragile articles, and various products of the soil, wheat, flour, etc. Upon these items the rates to the Pacific coast points are not lower than to intermediate points, and these rates are not the subject of consideration in this report. Schedule B includes about 350 items comprising articles which are more or less adapted to water transportation and upon which the carriers have been authorized to continue rates to intermediate points higher than to the Pacific coast terminals by the following percentages: 7 per cent from points in zone 2, 15 per cent from points in zone 3, and 25 per cent from points in zone 4. The zones referred to are those described in *Commodity Rates to Pacific Coast Terminals, supra*. The list of the articles is quite general and includes certain varieties of agricultural implements, baking powder, bottles, brass and bronze goods, candles, certain mixtures of canned goods, carpets and rugs, clothing, dried fruits and vegetables, certain furniture items, and many other articles. The range of rates on the schedule B commodities varies to a large extent with the carload minimum applied. Most of the articles move on rates applicable to minima of from 20,000 to 40,000 pounds. An examination of the tariffs containing the rates on the schedule B items to north Pacific coast points from eastern defined territories shows the following:

Carload minimum.	Number of items.	Carload minimum.	Number of items.	Carload minimum.	Number of items.
10,000	1	22,000	1	40,000	79
12,000	5	24,000	52	50,000	5
16,000	9	26,000	1	60,000	5
17,500	1	30,000	120	62,400	1
20,000	21	36,000	45		

It will be observed that the great bulk of the articles move under minima of 20,000, 24,000, 30,000, 36,000, and 40,000 pounds. The rates on items which take a carload minimum of 20,000 pounds vary from \$1.10 to \$2.25 per 100 pounds. Two-thirds of these items take rates to the Pacific coast of \$1.50 or less. The articles on which a carload minimum of 24,000 pounds applies take rates varying from 90 cents to \$2.30 per 100 pounds. More than 70 per cent of these rates do not



exceed \$1.50 per 100 pounds. The rates on the articles moving under a carload minimum of 30,000 pounds or more vary from 60 cents to \$2.50 per 100 pounds. There is but one item, viz, talc, on which the 60-cent rate applies from the Atlantic seaboard to the Pacific coast, but there are 16 items which move on rates as low as 75 cents per 100 pounds, and 120 items which move on rates of \$1 or less. One hundred and fifteen items move on rates varying from \$1.10 to \$1.25, while 98 items move on rates which are higher than \$1.25.

Schedule C includes articles which originate in large volume on or near the Atlantic seaboard, are particularly adapted to water transportation, and upon which the rates are relatively low. The list includes approximately 90 carload items, among which are the following: Certain mixtures of canned goods, many iron articles, nails, bolts, nuts, washers, bar iron, sheet iron, structural iron and steel, many paper articles, paints, soap, wire, rope, and telephone wire. These articles move in carloads varying from 24,000 to 80,000 pounds. Forty per cent of the items are subject to a 40,000-pound minimum, and the present rates range generally from 65 to 95 cents. Thirty per cent of the items are subject to a 50,000-pound minimum, and the rates range from 70 cents to \$1 per 100 pounds. An 80,000-pound minimum applies on 7 per cent of the items, and the rates on these items vary from 65 to 75 cents. In the appendix to this report are shown lists of all items upon which the rates to the Pacific coast are not in accord with the fourth section with rates and carload minima applicable in all instances.

#### ATTITUDE OF SHIPPERS IN EASTERN DEFINED TERRITORIES.

Evidence offered on behalf of shippers situated within eastern defined territories, in the main, supported the contentions of the carriers. These interests opposed any substantial increase in rates to the Pacific coast. They urge that rates to the Pacific coast should be maintained with a certain degree of stability, that men may be able to forecast the future of business conditions and that the basis of the rates so maintained may rest upon the usual and normal conditions affecting these rates and not upon the present abnormal and extraordinary conditions created by the war. Practically all of the eastern shippers urge the maintenance of the blanket rates from eastern defined territories to the Pacific coast upon the ground that the parity of rates heretofore maintained from all the great territory lying east of the Missouri River to the Pacific coast has afforded manufacturers in this territory equal opportunities to market their products upon the Pacific coast and has also afforded the coast cities the benefit of a wide market and the competition in price resulting therefrom.

## CONTENTIONS OF DENVER.

Evidence and brief offered by the representative of the Transportation Bureau of the Denver Civic and Commercial Association supports the contentions of the carriers. It is urged that our fourth section orders respecting westbound transcontinental rates, placing limitations upon the rates which may be applied from eastern territory to intermountain points, have had the effect of reducing many of the rates to Utah points found reasonable by us in *Commercial Club of Salt Lake City v. A., T. & S. F. Ry. Co., supra*. In *Grand Junction Chamber of Commerce v. D. & R. G. R. R. Co.*, 23 I. C. C., 115, the Denver & Rio Grande and Colorado Midland railroads were denied authority to continue lower rates from Chicago, Mississippi or Missouri River territories to Salt Lake City than to intermediate points on these lines as far west as Grand Junction, Colo. The result of this decision and of Fourth Section Order No. 124, respecting transcontinental rates, has been to produce what may be called a plateau of rates from eastern territory to points in Colorado, Utah, and Nevada. Denver lies near the eastern edge of that plateau, and the rates from eastern territory to that point are in some instances but little less than the rates to Salt Lake City or to Reno; the former approximately 600 miles and the latter 1,000 miles west of Denver. Denver, therefore, finds her jobbing area greatly restricted, partly by reason of the facts above stated, and further by reason of the fact that on the schedule B items Denver's rates to intermountain territory are in some instances the same and in other instances not materially less than the rates from the Missouri River, which by reason of the terms of Fourth Section Order No. 124 are about 7 per cent less than the rates from Chicago. Chicago, therefore, has rates to this intermountain territory in some instances but 7 per cent higher than the rates from Denver, although the distance from Denver to Chicago is about 1,000 miles.

The representative of Denver interests in this proceeding has not asserted that the rates to Denver from eastern points are higher than reasonable, but insists that many of the rates to points west of Denver by reason of the limitations prescribed in Fourth Section Order No. 124 and other orders are less than these points could reasonably hope to secure on the basis of their geographical location and the traffic conditions of the lines by which they are served. This condition is said to result in undue prejudice to Denver.

## CLAIMS OF THE PACIFIC COAST CITIES.

The representatives of the Pacific coast cities supported the request of the carriers to allow the existing rates to continue in effect to the ports. No very serious opposition was manifested to the proposed

increases on schedule C items of 10 cents in carloads and 25 cents in less than carloads. Certain witnesses expressed opinions that some of these coast rates were reasonable in and of themselves and on that account should not be increased, but little, if any, evidence was offered by the representatives of the coast cities in support of these opinions. Much was said on behalf of the coast cities against the disturbance of long-standing conditions and the injury to industries and enterprises on the Pacific coast that will result from any large increases in rates to the ports. One of the industries that has assumed large proportions on the Pacific coast during the last year is that of shipbuilding. Old shipbuilding plants have been reopened and new ones constructed and extensive contracts have been entered into for the construction of many vessels, some for foreign and others for American shipowners. The steel for these merchant vessels is drawn from the east, and it was testified that approximately 3,200 tons of structural steel is required for the construction of each vessel of the usual type there being built. The present rate on this commodity, which is one of the schedule C items, from Pittsburgh to the Pacific coast is 75 cents. The maximum rate authorized from Pittsburgh to intermediate points is \$1. The transportation cost for 3,200 tons of this steel under present rates is \$48,000. If the rates should be increased to the level of the rates to intermediate points, this transportation cost would be increased by \$16,000.

It is urged that the shipbuilding industry on the Pacific coast is in large part new. Its great development within the last year is due to extraordinary conditions as the result of which merchant ships command a price from three to five times as great as could have been secured for similar ships two or three years ago. It is urged that this industry at this time is not able to stand material increases in these iron and steel rates. Other industries of smaller magnitude but of importance and value showed how their interests in some instances would be jeopardized by any substantial increases in these coast rates.

The assertion is made on behalf of the coast interests that they have relied as protecting them from increases in the coast rates on that portion of the amended fourth section of the act which reads as follows:

Whenever a carrier by railroad shall in competition with a water route or routes reduce the rates on the carriage of any species of freight to or from competitive points, it shall not be permitted to increase such rates unless after hearing by the Interstate Commerce Commission it shall be found that such proposed increase rests upon changed conditions other than the elimination of water competition.

This statement has no application to the schedule B rates, for these have not been reduced on account of water competition or for



any other reason, except in isolated instances, subsequent to the approval of the amended act. Upon about 65 of the carload items in schedule C, rates have been reduced subsequent to the passage of the amended act. We do not consider the water competition between the two coasts as having been eliminated. Even if the elimination of competition by canal were considered as complete for the time being, it is not certain that the statutory provision prohibiting the increase of rates reduced to meet water competition, unless after hearing it is found that the proposed increase rests upon changed conditions other than the elimination of water competition, is applicable. The water service has suffered an interruption, however, which has already been prolonged for more than a year. Every present indication points to a continued scarcity of boats for this service as long as the war continues. The canal and the ocean are still available for commerce, and the time will come when this service will be reestablished. It is on account of the interruption to this service that we have been petitioned to reopen these applications that they may be dealt with as present circumstances warrant. As to these rates which have been reduced subsequent to August 18, 1910, in *Reopening Fourth Section Applications, supra*, we stated:

To continue rates to the coast points that are lower than are necessitated by the actual water competition and higher rates to intermediate points and to other points over similar distances under like circumstances is to perpetuate a discrimination that is unjust. The second and third sections of the act forbid all unduly preferential or unjustly discriminatory rates and practices. The portion of the fourth section above quoted does not repeal or annul any part of the second and third sections of the act to regulate commerce. If a coast point is receiving a lower rate than that to which it is lawfully entitled by the conditions there existing, it is a preference at that point that results in prejudice against higher rated points whether intermediate thereto or not. Furthermore, the primary purpose of this portion of the fourth section being to preserve and promote competition by the water carriers, it must be so construed as to give effect to that purpose. If the rail rates between the two coasts, established in the light of conditions then existing, should, through such a complete change of condition as that which has so recently come about, be now at a level so low as to make the service between the two coasts unattractive to the boat lines, should they be readjusted to a basis that will attract the water carriers back to the service and the primary purpose of the section be achieved, or should they be held at the present level and the legislative purpose to a certain extent be defeated?

The order entered in that case required the carriers to revise the rates to the Pacific coast and intermediate points on or before September 1, 1916, in such manner as to cure at least in part the discrimination then existing. All the carload rates on schedule C commodities were increased by 10 cents on December 30, 1916. Suit was filed in the United States district court for the district of Oregon by the Skinner & Eddy Corporation seeking an injunction restraining the

carriers from increasing the coast rates and restraining the commission from enforcing the terms of its order. By decree December 29, 1916, the court denied the application for an injunction and held our order to be valid and the rates established thereunder to be lawful.

The representatives of the intermediate points in Washington, Idaho, Utah, Nevada, and Arizona are before us in this proceeding urging that the general level of rates on these articles from eastern defined territories to Pacific coast points is not unreasonably low, and that such rates may fairly be applied as maxima at intermediate points.

#### EVIDENCE ON BEHALF OF ARIZONA.

The complaint in No. 9278, *Arizona Corporation Commission v. A., T. & S. F. Ry. Co. et al.*, alleges that the present rates on commodities to Arizona points are unjust and unduly discriminatory as compared with rates on the same commodities applied to the Pacific coast cities. The complaint was supported by testimony and exhibits. One exhibit contained a list of about 165 commodities selected from the transcontinental tariffs showing the rates to the coast and to Phoenix in effect at the date of the hearing from transcontinental groups A, B, D, and F and the car-mile earnings upon this traffic upon the assumption that the distances from New York, Pittsburgh, Chicago, and Kansas City are representative of the distances from the groups A, B, D, and F, respectively. A second assumption is made that there is the same amount of tonnage moving under each of these items. The list embraces articles that move to the coast on rates varying from 65 cents to \$1.65 and shows many iron articles moving at relatively low rates and in large volume and certain articles of high value, light loading, and highly rated. The assumption made, therefore, that there is the same amount of tonnage moving on each item is not correct. If it were correct, however, the exhibit shows that the average car-mile earning on these items on traffic destined to the coast was 11.6 cents from group A; 13.4 cents from group B; 15.4 cents from group D; and 20 cents from group F.

Under the same assumptions, the exhibit purported to show that the average car-mile earnings on these commodities to Phoenix were 18.8 cents from group A, 20.1 cents from group B, 22.5 cents from group D, and 27.1 cents from group F. Even if the assumptions made in this exhibit were approximately correct it would be inconclusive as proving that the rates on these articles to the coast from points east of group F are reasonable and fairly remunerative, or that the rates to Phoenix from points east of group F are unreasonably high. Another exhibit contrasts the car-mile earnings in

the year 1904 on many of the items in a selected list under the then existing rates and carload minima with the car-mile earnings under the present rates and carload minima. This exhibit showed that the carload minima are now higher than in 1904, and the rates are in some instances higher and in other instances lower than in 1904, while the car-mile earnings are higher than in 1904 in numerous instances. The average car-mile earnings which are shown in the exhibit have been computed on the same assumption as heretofore stated with reference to the first exhibit, namely, that the same tonnage moved under each item.

#### EVIDENCE ON BEHALF OF UTAH.

The evidence presented on behalf of Salt Lake City consisted largely of carefully prepared exhibits. One exhibit showed carload rates and minima to the coast cities on about 280 items, the corresponding rates to Salt Lake City from transcontinental groups A to F, and the divisions of the rates to San Francisco accruing to the lines both east and west of Utah common points. Another exhibit showed the carload rates from eastern defined territory to the coast cities on approximately 130 items selected from schedule B, the carload minima and earnings per car, and the divisions of these earnings accruing to the lines both east and west of Salt Lake City. Since a blanket rate applies on nearly all commodities to the Pacific coast from groups A to F, inclusive, the farther west the freight originates the larger the earnings per car accruing to lines west of Salt Lake City. Thirty of these items apply to articles moving under a carload minimum of 30,000 pounds and on rates varying from 75 cents to \$1.75. The exhibit purports to show that the divisions accruing to lines west of Salt Lake City on a car of 30,000 pounds moving to San Francisco under a rate of \$1.25 are \$105.30 if the car originates at New York; \$141.96 if originating at Chicago; and \$180.60 if originating at Omaha. Another exhibit shows 56 commodities selected from the schedule C list, the rates to the coast effective December 30, 1916, and the carload earnings accruing to the lines both east and west of Salt Lake City. Twenty-nine of these items move under a carload minimum of 40,000 pounds.

The exhibit shows that the per car earnings accruing to lines west of Salt Lake City on a car of 40,000 pounds moving to San Francisco on a rate of 85 cents is \$94.48 if the car originates at New York; \$126.72 if it originates at Chicago; and \$167.20 if it originates at Omaha. Other exhibits showed examples of less-than-carload rates to the coast on items selected from schedules C and B, the rates to Salt Lake City on the same articles and the amounts by which these rates exceed the rates to the coast. Another exhibit showed certain carload and less-than-carload rates from Missouri



River, Denver, and Salt Lake City to San Francisco on a limited list of articles. On a number of these articles the rates from Denver were lower than from Salt Lake City. Such rates are in violation of the long-and-short-haul rule of the fourth section and are not protected by any application filed with us. The carriers signified their intention to correct these departures from the fourth section by publishing rates from Salt Lake City not higher than the rates contemporaneously in effect from Denver.

Representatives of Salt Lake City urge that it is approximately 800 miles east of the Pacific coast: that the car-mile earnings which the carriers receive on this traffic from eastern defined territories to the Pacific coast, as a whole, if not fairly remunerative are very nearly so; and that it necessarily follows that when the same rates are applied to Salt Lake City for the shorter haul, the revenues are fairly remunerative. It is further urged that, as the rates from the transcontinental groups are divided by the carriers between themselves, the carriers east of Chicago receive the same revenue on a car destined to Salt Lake City as to San Francisco, except in the few instances where the rates from New York or Pittsburgh to the Pacific coast are less than 75 cents. The carriers east of Chicago perform the same service on business originating in territory east of Chicago when the car goes to Salt Lake City as when it is destined to San Francisco, but the carriers west of Chicago perform a less service on business destined to Salt Lake City and exact the same divisions on commodities taking terminal rates to Salt Lake City, and higher divisions on all commodities that take higher than terminal rates.

We are not particularly concerned in these proceedings with the divisions which any of the carriers secure out of this traffic. Our concern is with the following issues: Are the lower rates to the coast cities necessitated under present conditions? Are they in all instances necessitated under normal conditions or such conditions as existed for the first year after the opening of the Panama Canal? Are they less than normal or fairly reasonable? Are the rates to intermediate points unduly prejudicial? If higher rates than are applied to the coast must be permitted at intermediate points, should such rates be applied on all articles listed under schedules B and C? If higher rates are permitted to intermediate points than to terminals on certain articles, should such higher rates be permitted as far east of the coast cities as Salt Lake City?

#### EVIDENCE OFFERED BY NEVADA.

Evidence offered on behalf of the Nevada Railroad Commission showed a careful study of the rates and car-mile earnings on business moving to Reno and to San Francisco. An exhibit was intro-

duced showing that the total freight received from the east at Reno during the year 1908 amounted to 22,295,056 pounds. Of this 13,263,576 pounds consisted of schedule A commodities, upon which the rates to Reno are not higher than to the coast terminals; 4,179,084 pounds consisted of schedule B commodities, and 4,852,396 pounds consisted of schedule C commodities. Of this total tonnage coming to Reno from the east during the year named the receipts from the various transcontinental groups A to J were as follows: From group A, 992,242 pounds; group B, 1,075,570 pounds; group C, 2,683,767 pounds; group D, 4,834,927 pounds; group E, 2,904,422 pounds; group F, 4,403,358 pounds; group G, 4,193,380 pounds; group J, 1,208,390 pounds. Another exhibit showed 46 apparently representative commodities selected from the schedule C list. Upon these commodities the car-mile earnings on traffic to Reno and San Francisco were computed upon the supposition that these cars moved from New York, Pittsburgh, Cincinnati, Chicago, St. Louis, and Kansas City. In this exhibit, as in others, the assumption was indulged that the same number of cars move under each item. On this assumption the following table has been constructed from the computations of the witness:

*Results of the computations made as to the rates and per car-mile earnings on 46 selected commodities taken from schedule C. Average rates and car-mile earnings are computed on the assumption that there is the same amount of one commodity as of another.*

From—	Average carload.	Average rate to coast.	Average rate to Reno.	Average car-mile earnings on traffic to coast.	Average car-mile earning on traffic to Reno on pres- ent rates.	Average car-mile earning that would result on traffic to Reno if terminal rates were applied.
	Pounds.	Cents.	Cents.	Cents.	Cents.	Cents.
New York.....	47,283	89.1	115.1	13.08	18.4	14.15
Pittsburgh.....	47,283	88.5	105.1	15.01	19.75	10.47
Cincinnati.....	47,283	88.5	105.1	16	21.19	17.67
Chicago.....	47,283	85.9	95	17.43	22.09	19.52
St. Louis.....	47,283	85.9	95	18.02	22.93	20.26
Kansas City.....	47,283	85.9	80	20.02	21.71	22.83

There is a slight error in the average rate and car-mile earnings shown from New York for the reason that the witness was apparently under the impression that the increased rates to coast points, effective December 30, 1916, applied from all territories and on all items. There are certain iron articles in the list that formerly took a rate of 55 cents from Chicago, 65 cents from Pittsburgh, and 75 cents from New York. Upon these articles the rates were increased from Pittsburgh and points west, but were not increased

from New York. The effect of this misconception, however, would be small on the stated average rates and car-mile earnings from New York and has no effect upon the rates and earnings from other territories. The witness contrasts these average car-mile earnings with the average car-mile earnings upon all carload traffic on the following-named railroads for the years indicated:

Railroad.	Year ending June 30—	Earn- ings per loaded car.
		<i>Cents.</i>
Pennsylvania R. R.....	1914	16.25
Chicago & North Western.....	1914	15.97
Union Pacific Company.....	1914	15.45
Southern Pacific Company.....	1914	20.50
Southern Pacific Company.....	1916	20.08
Southern Pacific Company in Nevada.....	1916	16.90

We show below the average car-mile earnings of all carload traffic and the average carload of revenue freight on some of the western railroads for the year ending June 30, 1916, as taken from the annual reports filed with this Commission:

Name of road.	Average revenue per loaded car per mile.	Average load.
YEAR ENDING JUNE 30, 1916.		
	<i>Cents.</i>	<i>Pounds.</i>
Atchison, Topeka & Santa Fe.....	16.52	34,280
Chicago, Milwaukee & St. Paul.....	13.58	35,880
Colorado Midland.....	23.68	36,960
Denver & Rio Grande.....	24.46	44,780
Great Northern Ry. Co.....	17.62	45,740
Oregon Short Line R. R.....	20.31	48,240
Oregon-Washington R. R. & Nav. Co.....	21.88	43,680
Northern Pacific Ry. Co.....	16.52	41,680
San Pedro, Los Angeles & Salt Lake R. R. Co.....	22.39	37,920
Southern Pacific Co.....	20.08	39,640
Spokane, Portland & Seattle Ry. Co.....	20.76	39,840
Union Pacific R. R. Co.....	15.37	35,760
Western Pacific Ry.....	14.25	41,340

Examining the average carloads on the Atchison, Topeka & Santa Fe, the Chicago, Milwaukee & St. Paul, Northern Pacific, Great Northern, Union Pacific, and Southern Pacific, it will be seen that their average load is approximately 39,000 pounds, as compared with the average load of the 46 commodities shown of 47,283 pounds. These carloads shown in the exhibit are evidently about 20 per cent heavier than the average carloads on these great systems. The average car-mile revenue on the same systems is very nearly 16.6 cents on all traffic. This total traffic is made up of a great variety of articles, grouped under the following five general headings: Products of mines, products of forests, products of agriculture, products of animals, manufactures.



We show below the report of the Northern Pacific Railway Company for the year ending June 30, 1916, showing the respective tonnages hauled that year and the articles coming under these various groups:

Commodity.	Tons (2,000 pounds each) of revenue freight originating on respondent's road.	Tons (2,000 pounds each) of revenue freight received from connecting carriers.	Total revenue freight carried.	
			Tons (2,000 pounds each).	Per cent of whole.
<b>Products of agriculture:</b>	<i>Number.</i>	<i>Number.</i>	<i>Number.</i>	
Grain.....	2,981,287	454,195	3,435,482	16.36
Flour.....	392,401	12,125	404,526	1.93
Other mill products.....	187,638	31,821	219,459	1.05
Hay.....	242,129	16,883	259,012	1.24
Tobacco.....	113	667	780	
Cotton.....		29,371	29,371	.14
Fruit and vegetables.....	544,571	109,251	653,822	3.11
Other products of agriculture.....	152,771	49,529	202,300	.96
Total products of agriculture.....	4,500,910	703,842	5,204,752	24.79
<b>Products of animals:</b>				
Live stock.....	264,830	38,545	303,375	1.44
Dressed meats.....	17,262	10,468	27,730	.13
Other packing-house products.....	7,620	9,474	17,094	.08
Poultry, game, and fish.....	48,580	4,378	52,958	.25
Wool.....	6,956	2,692	9,648	.05
Hides and leather.....	5,468	711	6,179	.03
Other products of animals.....	24,026	7,450	31,476	.15
Total products of animals.....	374,742	73,718	448,460	2.13
<b>Products of mines:</b>				
Anthracite coal.....	454,688	8,783	463,471	2.21
Bituminous coal.....	2,252,220	906,865	3,159,085	15.05
Coke.....	113,412	75,811	189,223	.90
Ores.....	1,012,720	92,934	1,105,654	5.27
Stone, sand, and other like articles.....	811,250	118,115	929,365	4.42
Other products of mines.....	381,036	77,904	458,940	2.18
Total products of mines.....	5,025,326	1,280,412	6,305,738	30.03
<b>Products of forests:</b>				
Lumber.....	5,054,485	490,188	5,544,673	26.41
Other products of forests.....	293,107	176,189	469,296	2.23
Total products of forests.....	5,347,592	666,377	6,013,969	28.64
<b>Manufactures:</b>				
Petroleum and other oils.....	112,852	81,547	194,399	.93
Sugar.....	31,372	23,814	55,186	.26
Naval stores.....	9,555	848	10,403	.05
Iron, pig and bloom.....	43,554	20,583	64,137	.31
Iron and steel rails.....	1,358	35,481	36,839	.18
Other castings and machinery.....	61,130	121,278	182,408	.87
Bar and sheet metal.....	8,340	41,588	52,928	.25
Cement, brick, and lime.....	338,265	150,856	489,121	2.33
Agricultural implements.....	28,649	28,351	57,000	.27
Wagons, carriages, tools, etc.....	2,660	45,327	47,987	.23
Wines, liquors, and beers.....	33,262	25,824	59,086	.28
Household goods and furniture.....	18,129	18,055	36,184	.17
Other manufactures.....	202,709	258,168	460,877	2.20
Total manufactures.....	891,835	854,720	1,746,555	8.33
<b>Miscellaneous commodities not specified above (carload rates)</b> .....	263,883	115,960	379,843	1.81
L. c. l. goods not distributed above.....	746,731	149,615	896,376	4.27
Grand total, all commodities.....	17,151,019	3,844,674	20,995,693	100.00

It will be noted that 28.64 per cent of the tonnage hauled was forest products, consisting mainly of lumber; 30.03 per cent consisted of

coal, coke, stone, sand, and other like articles; 24.79 per cent were products of agriculture, mainly grain; and 8.33 per cent was traffic in manufactured articles. The 46 articles shown in the Nevada exhibit are the following: Bags and bagging; calcium, carbide of; calcium, chloride of; green coffee; cotton factory sweepings; cotton piece goods; insulators, terra cotta, etc.; telegraph, telephone, and electric pole material; lawn mowers, hand; sledges, wedges, and mauls; hemp, sisal, etc.; structural iron; bar iron; shafting, etc.; billets, blooms, etc.; butts and hinges; castings, n. o. s.; cylinders, wrought; lathing; woven wire, etc.; nails, horseshoe; pipe fittings and connections; pipe, cast iron; pipe, wrought iron; wine; oils, petroleum; oil, linseed; oil cloth, linoleum, etc.; paper, adding machine, etc.; paper, bags and barrel lining; paper, wall; paper, wrapping, not printed; potassium and sodium, cyanide of; roofing, prepared; sadirons; soda, bicarbonate of; starch and dextrine; radiators; stove pipe, iron; tacks, iron, etc.; tile, marble, or slate; tin andterne plate; twine and cordage; wire fencing; wire rods; wire telephone or electric light cables; and zinc spelter. These are practically all manufactured articles, higher valued and almost uniformly the country over higher rated than are the products of the mines, forests, or agriculture.

We are placing in parallel columns the average loads, average car-mile earnings, average hauls, and the character of traffic on these systems as a whole, and similar quantities respecting these 46 commodities when hauled to San Francisco or to Reno. From these comparisons we are asked to conclude that the rates and car-mile earnings to San Francisco on these commodities are not unreasonably low; and to conclude also that the rates and car-mile earnings to Reno are unreasonably high:

Average for systems of western roads. Atchison, Topeka & Santa Fe; Chicago, Milwaukee & St. Paul; Great Northern; Northern Pacific; Southern Pacific; Union Pacific.	Average to San Francisco, Cal.		Average to Reno, Nev.	
Average haul, 262 to 524 miles.	Average haul from—	Miles.	Average haul from—	Miles.
	New York.....	3,180	New York.....	2,937
	Pittsburgh.....	2,739	Pittsburgh.....	2,496
	Cincinnati.....	2,570	Cincinnati.....	2,327
	Chicago.....	2,270	Chicago.....	2,027
	St. Louis.....	2,195	St. Louis.....	1,953
	Kansas City.....	1,976	Kansas City.....	1,733
Average carload, approximately 39,000 pounds.	Average carload .pounds..	47,283	Average carload .pounds..	47,283
Average freight revenue per loaded car per mile, approximately 16.6 cents.	Average per car-mile from—	Cents.	Average per car-mile from—	Cents.
	New York.....	13.08	New York.....	18.40
	Pittsburgh.....	15.01	Pittsburgh.....	19.75
	Cincinnati.....	16.00	Cincinnati.....	21.19
	Chicago.....	17.43	Chicago.....	22.09
	St. Louis.....	18.02	St. Louis.....	22.93
	Kansas City.....	20.02	Kansas City.....	21.71
Character of traffic: All carload freight traffic.	Character of traffic: 46 commodities classed as manufactures.		Character of traffic: 46 commodities classed as manufactures.	

The evidence also shows that for the year 1914 four systems, the Pennsylvania, Chicago & North Western, Union Pacific, and Southern Pacific, had an average earning per freight-train mile of \$4.01 and an average load per train of 542.35 tons. If an average trainload were made up of these 46 commodities and hauled to Reno under present rates the revenue per train-mile would be from New York, \$4.26; from Pittsburgh, \$4.57; from Cincinnati, \$4.90; from Chicago, \$5.08; from St. Louis, \$5.28; from Kansas City, \$5.01. We are asked to conclude that these train-mile earnings are unreasonably high. If hauled to San Francisco under present rates the train-mile earning would be as follows: From New York, \$3.04; from Pittsburgh, \$3.50; from Cincinnati, \$3.74; from Chicago, \$4.10; from St. Louis, \$4.24; and from Kansas City, \$4.71. We are asked to conclude that these train-mile earnings are not unreasonably low. If present terminal rates were applied at Reno the train-mile earnings would be on a train of average size of these 46 commodities:

From—

New York.....	\$3.29
Pittsburgh.....	3.85
Cincinnati.....	4.12
Chicago.....	4.60
St. Louis.....	4.77
Kansas City.....	5.37

We are asked to conclude that these train-mile earnings are reasonable.

The brief for the Railroad Commission of Nevada also calls attention to exhibits filed in 1908 in *Railroad Commission of Nevada v. S. P. Co., supra*, purporting to show that the portion of the haul on transcontinental traffic from Reno to San Francisco, being in part mountainous, is proportionately more expensive than other portions of the haul east of Reno, and that the earnings on transcontinental traffic destined to Nevada points would, if terminal rates were effective at such points, produce reasonable returns to the carriers on the portion of their property assignable to that traffic.

#### SPOKANE EVIDENCE.

The evidence on behalf of the city of Spokane included a list of 31 commodities selected from schedule C showing the rates to the coast and Spokane prior and subsequent to the effective date of our order with respect to these commodities. It appears that although the rates on these commodities to the coast and to Spokane were at that time materially reduced, the disparity between the rates to the coast and to Spokane was increased in the instances shown. One exhibit contains an analysis of the schedule C rates, showing the rate on each item from the various transcontinental groups to Spokane and to the coast, the carload minimum and



through revenue per car accruing to lines east of Chicago, to the lines between Chicago and St. Paul, and to lines west of St. Paul, and show also the car-mile and ton-mile revenues received by the lines west of St. Paul on these commodities moving to the coast or to Spokane. Here, as in the exhibits offered by the Arizona and Nevada representatives for the purpose of determining the average car-mile and ton-mile earnings on this traffic, the assumption is made that the same number of carloads move of each item. Upon this assumption the average car-mile earning received by the lines west of St. Paul on the schedule C commodities moving to Spokane is 26.5 cents and the average ton-mile earnings 11.3 mills. The average car-mile earnings to the coast are computed to be 15.7 cents and the average ton-mile earnings 6.7 mills. Another exhibit was constructed to show the same quantities, namely, rates, through revenue per car to lines east of Chicago, revenue per car to lines between Chicago and St. Paul and to lines west of St. Paul, and the ton-mile and car-mile earnings on lines west of St. Paul, upon the assumption that the present coast rate should be applied at Spokane. The exhibit purported to show that the lines west of St. Paul now secure on traffic to the coast a revenue of 17.4 cents per car-mile and 7.6 mills per ton-mile and would secure on Spokane traffic an average revenue of 21.8 cents per car-mile and 9.4 mills per ton-mile on these commodities, if the coast rates were applied to Spokane. Another exhibit presented a similar analysis of the schedule B carload items purporting to show that the present average car-mile and ton-mile earnings accruing to lines west of St. Paul on this traffic to Spokane average 23 cents per car-mile and 15.1 mills per ton-mile; average to the coast, per car-mile, 16 cents; per ton-mile, 10.4 mills. Other exhibits were introduced to show the importance of Spokane and adjacent territory as a distributing and consuming center and the distance to which Spokane is now distributing certain articles in competition with the coast.

#### EVIDENCE OF THE IDAHO PUBLIC UTILITIES COMMISSION.

The evidence on behalf of the Idaho Public Utilities Commission shows that for the year ending June 30, 1915, there originated on the railroads in Idaho 6,080,076 tons of freight, divided as follows:

Products of—	
Agriculture.....	1, 190, 199
Animals.....	281, 565
Mines.....	1, 661, 984
Forests.....	2, 226, 320
Manufactures.....	395, 007
Miscellaneous.....	103, 300
L. c. l.....	221, 701
Total .....	6, 680, 076

The tonnage hauled by the railroads in Idaho during that year was 12,880,350 tons, of which, as stated, a little more than 6,000,000 tons originated in the State. The exhibits filed showed the basis for the construction of the rates to points in Idaho, on direct lines to the Pacific coast and on branch lines. It appears that the rates on both schedule B and C commodities to points in Idaho that are intermediate to Pacific coast terminals are in most instances the maximum rates authorized by us in our Fourth Section Order No. 124, while the rates to branch-line points or to points not intermediate to coast terminals are often made arbitraries or locals higher than the rates to junctions. It is shown also that while the maximum rates authorized to intermediate points have in some instances been reduced at Spokane and at La Grande, Oreg., by combinations on the coast, such combinations have not affected the rates to Idaho points.

## CARRIERS' REBUTTAL.

An exhibit introduced by the carriers in rebuttal shows as to 11 representative schedule B items and 14 schedule C items, that if the present coast rates were applied to intermediate points thereon the rates from the various transcontinental groups would be reduced to all intermediate points west of certain named stations on the articles named. We give below the rates to the coast in effect prior to December 30, 1916, from eastern defined territories on 16 of these commodities and the most easterly points in Minnesota, North Dakota, or Montana at which the coast rate from New York and Chicago was exceeded.

The reduction of rates to intermediate territory to the level of the coast rates in effect prior to December 30, 1916, shows:

Rates from New York reduced to all stations west of	Rates from Chicago reduced to all stations west of	Commodity.	Carload rate to coast.
Fridley, Minn.....	Mapleton, N. Dak.....	Carpeting.....	\$1.25
Randall, Minn.....	Crystal Springs, N. Dak.....	Clothing.....	1.50
Curlew, N. Dak.....	Billings, Mont.....	Furniture.....	1.10
Royalton, Mont.....	Sims, N. Dak.....	Liquors.....	1.25
Wibaux, Mont.....	Billings, Mont.....	Hand pumps.....	1.10
Custer, Mont.....	Lothrop, Mont.....	Stoves.....	1.30
Magnolia, N. Dak.....	Sully Springs, N. Dak.....	Canned goods.....	.75
East of St. Paul.....	Darling, Mont.....	Dry goods.....	.90
Oriska, N. Dak.....	Mandan, N. Dak.....	Structural iron.....	.75
Do.....	do.....	Bar iron.....	.75
Do.....	do.....	Nails and wire.....	.75
Sunny, N. Dak.....	Terry, Mont.....	Petroleum oils.....	.90
Perham, Minn.....	Bismarck, N. Dak.....	Oilcloth.....	.75
Sweet Brier, N. Dak.....	Butte, Mont.....	Building paper.....	.75
Magnolia, N. Dak.....	Sully Springs, N. Dak.....	Paint.....	.75
Eldredge, N. Dak.....		Soap.....	.80

For the months of January, April, July, and October, 1916, the tonnage originating on and east of the west boundary of transcontinental group F, as described for traffic to California terminals, in

*Commodity Rates to Pacific Coast Terminals, supra*, and moving to Pacific coast ports and intermediate territory was as follows: To Pacific ports, domestic 506,730 tons, export 240,191 tons. To points in the States of New Mexico, Colorado, Utah, Arizona, Nevada, Montana, Idaho, Wyoming, and to nonterminal points in California, Oregon, and Washington, 998,104 tons. This shows that the tonnage originating in transcontinental groups A to F and moving to the higher rated intermediate territory of these Western States is approximately double the domestic tonnage moving to the Pacific coast ports.

It is evident that if it should be concluded that the present rates to the Pacific coast terminals on all these commodities are sufficiently remunerative and should be applied as maxima at intermediate points, the result would be far-reaching. The rates from the Missouri River on 18 items covering many iron articles would be reduced from 75 to 65 cents to a large part of the intermediate territory. The rates from Chicago and points east thereof on all the articles in both schedules B and C would be reduced to a large part of the territory in the States of Washington, Oregon, Idaho, Montana, Utah, Nevada, Colorado, New Mexico, Arizona, and California by amounts which on the schedule C list vary from 15 to 45 cents and on the schedule B items from 5 to 74 cents. The proof submitted by the carriers of rates on these commodities to Spokane, Reno, and Phoenix, constructed in proportion to the rates found reasonable by us at Salt Lake City and Denver, shows that the present level of rates on many commodities to the coast is materially lower, distance considered, than the rates established by us to the points above named. The proof submitted by the Arizona commission as to the 165 selected commodities purporting to show that the average car-mile earnings on these commodities when moving to the coast under the rates in effect prior to December 30, 1916, were 11.6 cents if the freight originated at New York, 13.4 cents if originating at Pittsburgh, 15.4 cents if originating at Chicago, and 20 cents if originating at Kansas City, tends to prove that the rates then existing from the territory east of Kansas City were in fact unreasonably low because they yielded a lower car-mile revenue on these manufactured articles than the average carload earnings of these railroads from all freight. It should be remembered, however, that the increases in the schedule C carload rates, effective December 30, 1916, would, if carried into the computations, have materially increased all of the average car-mile earnings shown.

The proof offered by the Nevada commission with respect to the average car-mile earnings on 46 selected commodities taken from the



schedule C list purporting to show that these average car-mile earnings under the present rates on business destined to the coast are, from New York, 13.08 cents; from Pittsburgh, 15.01 cents; from Cincinnati, 16 cents; from Chicago, 17.43 cents; from St. Louis, 18.02 cents; from Kansas City, 20.02 cents; also supports the contention of the carriers that these schedule C rates from territories at least as far west as Chicago are unreasonably low. In the proof offered by the intermediate territory, represented by Salt Lake City, the city of Spokane, and the railroad commissions of the States of Arizona, Idaho, and Nevada, to the end of showing that the rates to the coast cities were not unreasonably low, no set of rates taken from any other great system of rates was offered for comparison. Examples of rates to Fort Worth, Tex., Denver, and Salt Lake City, from all defined territories were offered by the carriers for the purpose of showing that, distance considered, the rates to the Pacific coast cities are less than normal and that the rates to intermediate points are in many instances less than they reasonably might be. While we are convinced that considering all of these rates together from the defined territories east of the Missouri River to the Pacific coast, they may be fairly considered as subnormal, we are impressed with the fact that some of them are not so low as to necessitate any fourth section relief and that other articles do not originate in large volume at points on or near the Atlantic seaboard and have not been seriously affected by water competition.

In our former reports respecting these transcontinental rates we proceeded upon the information then of record to make such disposal of the issues involved as the existing circumstances appeared to warrant. The applications sought relief as to all commodities, and the evidence offered in 1911 in support thereof made no attempt to segregate the commodities moving from eastern territory to the Pacific coast into two classes. The evidence was very general, and we dealt with the rates involved as a whole. The order issued respecting the schedule B commodities therefore permitted the carriers to maintain higher rates to the interior than to the Pacific coast on all commodities originating east of the Missouri River, irrespective of their character, adaptability to conveyance by water, particular points of origin, or the rates applied. It followed as a natural consequence that on some of these commodities relief from the fourth section was authorized where none was necessary. It also probably followed that a less degree of relief was afforded on some commodities than the actual circumstances surrounding that particular traffic justified.

In the evidence offered in 1914, after the opening of the Panama Canal, the carriers undertook to show as to each article concerning which relief was sought that it was adapted to water transportation;

that it originated in large volume on the Atlantic seaboard; that the rate sought to be established was necessary to meet the actual competition existing; and that the rate so necessitated was relatively low considering the character of the traffic and the length of haul involved. Subsequently applications were made for special relief as to the rates on a large number of other commodities. The relief sought by these applications was opposed by the representatives of the American-Hawaiian and Luckenbach steamship companies. At hearings concerning these applications in which representatives of the steamship lines participated, evidence was taken concerning the commodities involved, their points of origin, adaptability to conveyance by water, and the rates applied by the water lines. The evidence taken at all these hearings, by stipulation of counsel, has been made available for use in the disposal of the issues here. It seems clear that we should now seek to outline the main features of an adjustment of rates on these commodities from eastern defined territories to this western section of the United States that will in our view be justified under present conditions and that may in large part be undisturbed by any conditions that may again exist when the ships return to the coast to coast traffic.

The carriers call attention to our conclusions in *Fourth Section Violations in the Southeast, supra*, with respect to the applications of the Illinois Central Railroad and other carriers for authority to continue lower rates from the Ohio River crossings to New Orleans and other Mississippi River cities than to intermediate points. Although, as stated in the report, there were no regular lines of steamboats plying between New Orleans and the Ohio River crossings, we authorized the carriers to continue the rates then current to New Orleans and higher rates to intermediate points. The situation then and there existing was unlike the one with which we are here and now confronted. The rates from the Ohio River cities and from St. Louis to New Orleans had been in effect for many years, and as against these rates the water lines had continued to compete for business with the rail lines for more than 10 years, and only ceased to operate regular service when a large portion of the fleet engaged in the business was destroyed by storm. Boats were in operation at the time of making the order in that case, and, so far as we are advised, are in operation still, between New Orleans and Vicksburg, between Vicksburg and Memphis, between Memphis and St. Louis, and between the Ohio River cities and St. Louis. A barge line had just been organized to carry cement from Missouri River points to New Orleans. Each year at high water in the Ohio River a great fleet of barges is sent down the river from the vicinity of Pittsburgh to New Orleans loaded with

coal, iron articles, and other commodities which are warehoused in cities along the river and distributed as demand arises. The amount of tonnage so moved yearly was estimated to be in the neighborhood of a million tons. There was then no great outside demand for boats and no reason was shown for believing that the regular service on the Mississippi River might not be resumed at almost any time. Furthermore, no intermediate interest intervened and showed or sought to show that it had been or would be adversely affected by the relation of rates then existing. Purchasing boats for river use and organizing the service on the Mississippi River is a matter far more simple and inexpensive than organizing a regular service between the coasts of the United States capable of exercising a material influence upon the rail rates. The evidence given with respect to the fourth section applications of the Southern Pacific Company seeking authority to establish low rates on iron articles from Atlantic seaboard points via Galveston to the Pacific coast showed clearly that during the first year of operation of the Panama Canal an increasingly large proportion of the business of the water lines was done by the strongly organized steamship companies, the American-Hawaiian Steamship Company, Luckenbach Steamship Company, and Grace & Company. It was to meet this highly organized, financed, and well-equipped steamship service that the applications were made. What is the present situation? While these steamship companies are in existence their fleets are in large part occupied with carrying freight between the east coast of the United States and foreign countries, and at rates which are so much higher than can be secured between the two coasts of the United States as to make that service unattractive. The enormous amount of shipping that has been destroyed and the great demand for ships on account of the internment of some and the use of many others for purposes connected with the prosecution of the war have created an actual present world shortage of ocean-going steamships. The situation therefore now existing with respect to this coast to coast business is utterly unlike that which existed on the Mississippi River in the years 1913 and 1914, when the report in *Fourth Section Violations in the Southeast* was under consideration.

The arguments advanced by the representative of the steamship lines and by some, but by no means all, of the representatives of the intermediate territory, urge that the policy of the Commission hitherto consistently followed of allowing the rail carriers to reduce their rates to water competitive points to a level lower than to intermediate points in order to permit the rail carriers to compete for the traffic with water carriers is against the public interest, because it tends to reduce the profits of the water carriers and the number of



ships which would otherwise engage in the traffic. This argument is not new. In *Commodity Rates to Pacific Coast Terminals*, 32 I. C. C., 611, we stated:

It has been suggested that the construction of the Panama Canal by the Government of the United States is indicative of a governmental policy to secure all of this coast to coast business for the water lines, and that no adjustment of rates by the rail lines should be permitted which will take away traffic from the ocean carriers which normally might be carried by them. This suggestion, however, loses force under the consideration that the Panama Canal is but one of the agencies of transportation that the Government of the United States has fostered between the Atlantic coast and the Pacific. The Government has from the beginning of railroad construction in the United States encouraged their construction and operation by private capital and enterprise. Some of these transcontinental lines would not have been built had it not been for the liberality the Government extended to them at the time of their construction. As we view it, the Panama Canal is to be one of the agencies of transportation between the East and the West, but not necessarily the sole carrier of the coast to coast business. If the railroads are able to make such rates from the Atlantic seaboard to the Pacific coast as will hold to their lines some portion of this traffic with profit to themselves, they should be permitted so to do. The acceptance of this traffic will add something to their net revenues, and to that extent decrease, and not increase, the burden that must be borne by other traffic. It will also give the shippers at the coast points the benefits of an additional and a competitive service.

The argument advanced by the water lines, if carried to its logical conclusion, means in effect that all traffic which may be hauled by water carriers should be reserved for their exclusive handling. The rail carriers can not maintain, under ordinary circumstances, a level of rates between the Atlantic and Pacific coasts, between the north Atlantic ports and ports on the south Atlantic or Gulf coast or between points on the Pacific coast that will be successful in securing any considerable amount of traffic in competition with water carriers without fourth section relief. We are of the opinion that the best interests of the public, of the transcontinental carriers, and of these intermountain cities in particular, will be served by a policy that permits the transcontinental carriers to share with the water lines in the traffic to and from the Pacific coast ports. The lower rates to the ports, however, when necessary, must not be lower than the competition of the boats makes necessary, and must be high enough to cover, and that by a safe margin, actual out of pocket costs of securing and handling the traffic. The shippers at the coast are thereby given the benefit of competing routes and competing markets of supply. The railroads are enabled to fill up their trains with traffic which, although not highly profitable, yields a revenue materially greater than the out of pocket costs of securing and handling the traffic, thereby adding to the net revenues of the carriers

and to that extent lightening the transportation burden borne by other localities.

These transcontinental railroads can fairly expect such consideration as will permit them to continue to earn a reasonable return upon their property devoted to public use. If governmental control is so exercised as to prevent them from securing any considerable share of the business to and from the terminals and the largest possible return therefrom, such return must be derived from the other communities along their lines. It is perfectly clear that the Pacific coast cities have always paid lower transportation rates than they would have paid were it not for the facilities they have enjoyed for bringing manufactured articles from the eastern manufacturing districts and for sending east the products of the coast states by water. It is also clear that the intermountain section of the country has paid and now pays rates for the transportation of these manufactured articles which are higher proportionately than is paid by the coast cities and probably higher than it would be necessary to maintain if the rates to the coast cities could be maintained at a level more nearly proportionate to the service given.

The situation, however, is one which these carriers can not control. The advantage enjoyed by these Pacific coast cities is in the long run a permanent advantage. A war of unparalleled extent, drawing into its service a great part of the shipping of the world, has for the time being deprived these cities of the advantage of any substantial degree of water service. The present conditions admittedly are not normal. It is very earnestly urged that these abnormal conditions, however, are temporary and that the long standing commercial conditions should not now be disturbed by any material increase in the coast rates. The present conditions may be temporary as measured by the period of years during which these transcontinental railways have been built, but it is not apparent that the conditions are temporary in that within any known period of time they will have passed away. Under the present circumstances the maintenance of these lower rates to coast points and higher rates to intermediate points is unduly preferential to the coast points and unduly prejudicial to intermediate points.

We are of opinion that all these rates in schedules B and C to the Pacific coast should be now realigned to accord with the long-and-short-haul rule of the fourth section. In this realignment regard should be had for the conditions now existing, but the conditions that have existed and may again exist should not be forgotten. The rates to all the interior States of Arizona, New Mexico, Nevada, Utah, Wyoming, Idaho, Colorado, and Montana, as well as to the Pacific

coast States of California, Oregon, and Washington, should be adjusted at this time as fully as now can be determined, with especial reference to meeting all the requirements of sections 1, 3, and 4 of the act. The facts before us do not admit of such a finding as is sought by the carriers, the coast cities, and the eastern shippers, namely, that present conditions justify lower rates to the coast cities than to intermediate points. Neither do the facts altogether admit of such a finding as is sought by the representatives of the intermountain States, namely, that all of these rates to the Pacific coast cities are in and of themselves reasonable and fully remunerative. Some of these rates from eastern territories to Pacific coast terminals are unreasonably low, judged by the standards of car-mile or ton-mile earnings that have been offered for comparison or the rates which we have established on like commodities on these and other lines in many cases. Some of the rates are not unreasonable low, and no relief should be granted as to the rates on such commodities even under conditions similar to those which existed the year following the opening of the canal. There are, as stated, other commodities upon which the rates as a whole are unreasonably low from some of the eastern territory, particularly from transcontinental groups A, B, C, and D, as evidenced by the car-mile and ton-mile earnings and other comparisons offered. The rates on many of these commodities to the coast cities in the past have been influenced by the rates afforded by the water lines. These water rates have been variable. Under these circumstances some of the rail rates to the coast points are in the nature of things subject to variation. The essential justification for lower rates to a more distant point than to an intermediate point is the existence at the more distant point of depressed rates, which the carrier is powerless to affect, and failure to meet which would prevent the carrier from participating in the traffic to the more distant point. That necessity as to some of these rates has existed in the past and may again exist. While there is good reason for a certain variation in the rates to the coast points there is no necessity or justification for such variation in rates to the points so far inland that they are not affected by combination on the coast. The rates to the greater part of this intermediate territory should not now be made to depend upon or vary with the coast rates. In *Railroad Commission of Nevada v. S. P. Co.*, and *City of Spokane v. N. P. Co.*, *supra*, we proceeded in the light of the evidence then before us relating to the water competition to authorize the carriers to establish rates from Chicago, Pittsburgh, and New York to intermediate territory 7, 15, and 25 per cent, respectively, higher than the rates



contemporaneously applied to the coast. The evidence then offered afforded no basis for concluding that it would ever be necessary for the rail carriers to establish such a low level of rates between the two coasts as they have sought authority to establish on many articles since the opening of the Panama Canal. The total tonnage of the schedule C articles that originated in transcontinental groups A and B and moved thence via rail or water to Pacific coast terminals in the calendar year 1913 was 961,768 tons. During the year following the opening of the Panama Canal the westbound tonnage secured by the water lines was 951,044 tons. The range of rates applied by the water lines shown in the preceding pages of this report, the applications and proof offered in their support by the rail lines during 1915 for authority to meet these rates, and the volume of tonnage secured by the water lines evidence the compelling nature of the competition with which the railroads have been and may be again confronted as to many of the articles that originate in territory contiguous to the Atlantic seaboard. It is apparent from the facts at hand that this entire list of commodities, particularly those embraced within schedule B, should be scrutinized with care, and that all articles upon which the rates that can be secured from the eastern defined territories to the Pacific coast are not unreasonably low should be eliminated from schedule B and conform hereafter to the fourth section. All articles which do not originate on or near the Atlantic seaboard and upon which rates have not been particularly affected by water competition should also be eliminated from schedule B. All of the products of the soil, as well as canned goods from California, Washington, and Oregon, move to eastern territory via all-rail routes on rates that accord with the fourth section. The products of the soil of the central and eastern states, grain, vegetables, seeds, roots, and fruits, and canned goods, should also be transported to markets on the Pacific coast under rates that are in accord with the fourth section.

As heretofore stated, there are now in the transcontinental tariffs a considerable number of items on which the rates from groups A to F, inclusive, to Pacific coast ports and intermediate points are in accord with the long-and-short-haul rule. These items we have referred to as schedule A items. The following items, shown in the tariff of R. H. Countiss, agent, I. C. C. No. 1019, cover articles that either do not originate in large volume on the Atlantic seaboard, or if so, the rates on such articles do not appear to have been materially affected by water competition, and these rates should be realigned to conform for the future to the long-and-short-haul rule.

Item No.	Carload minimum.	Rate to coast.	Rate applies from eastern defined territories west of the points named below.	Commodity.
300	36,000	\$1.00	Chicago.....	Acetone.
320	24,000	1.50	All <sup>1</sup> .....	Feed and ensilage cutters.
354-B	60,000	.50	Chicago.....	Barytes.
364-B	10,000	2.50	All <sup>1</sup> .....	Bicycles.
372	24,000	1.50	do. <sup>1</sup> .....	Blower drills, forges.
398-A	36,000	1.00	Chicago.....	Boxes or crates.
400-B	30,000	1.50	All <sup>1</sup> .....	Brass, bronze, or copper goods.
420-B	40,000	1.10	do. <sup>1</sup> .....	Canned goods.
422	24,000	1.50	do. <sup>1</sup> .....	Carbon, black.
426-A	24,000	2.20	do. <sup>1</sup> .....	Cards, sample.
434	30,000	2.50	do. <sup>1</sup> .....	Cash registers.
440	40,000	.60	Chicago.....	Cement.
456-A	50,000	.80	All east of Chicago.....	Buckwheat and buckwheat flour.
466-A	60,000	.58	Chicago.....	Wheat.
467-A		.67		
472-A	40,000	2.00	All east of Chicago.....	Cheese.
502	24,000	1.60	All <sup>1</sup> .....	Oilskin clothing.
529	40,000	.85	Chicago.....	Depilatory.
552	24,000	1.50	All <sup>1</sup> .....	Dry goods.
564	30,000	1.60	do. <sup>1</sup> .....	Electrical goods.
572-A	30,000	1.50	do. <sup>1</sup> .....	Do.
576	16,000	2.00	do. <sup>1</sup> .....	Do.
578	30,000	1.50	do. <sup>1</sup> .....	Do.
588	12,000	2.95	do. <sup>1</sup> .....	Feathers and feather pillows.
592	16,000	2.00	do. <sup>1</sup> .....	Files or boxes, letter.
596-B	40,000	.60	Chicago.....	Food, poultry, or stock.
604	24,000	1.50	All <sup>1</sup> .....	Ice-cream freezers.
606	30,000	1.50	do. <sup>1</sup> .....	Fruits, dried or evaporated.
620	24,000	1.50	do. <sup>1</sup> .....	Furnaces or fires.
626	30,000	1.50	do. <sup>1</sup> .....	Brass bedsteads.
642	24,000	1.70	do. <sup>1</sup> .....	Iron theater chairs.
690	30,000	1.50	do. <sup>1</sup> .....	Glass, plate, etc.
702	30,000	.85	do. <sup>1</sup> .....	Glue.
706-B	Rule 11.	.75	do. <sup>1</sup> .....	Glycerine in tank cars.
708	20,000	1.75	do. <sup>1</sup> .....	Gocarts, sulkies, etc.
710	12,000	2.20	do. <sup>1</sup> .....	Gocarts, baby carriages, etc.
754	20,000	2.25	do. <sup>1</sup> .....	Harness and horse collars.
763-A	30,000	.85	Chicago.....	Hoops, wooden.
818	30,000	1.75	All <sup>1</sup> .....	Safes, vault fronts, and facings.
828	30,000	1.50	do. <sup>1</sup> .....	Stable fittings.
836	24,000	1.50	do. <sup>1</sup> .....	Tanks, etc.
838	30,000	1.85	do. <sup>1</sup> .....	Vault boxes.
840	30,000	1.75	do. <sup>1</sup> .....	Vault and prison work.
858	40,000	1.10	do. <sup>1</sup> .....	Lime phosphate.
864	30,000	1.50	do. <sup>1</sup> .....	Liquors, viz, champagne.
866-A	30,000	1.10	do. <sup>1</sup> .....	Grape juice.
868-A	30,000	1.25	do. <sup>1</sup> .....	Liquors, n. o. s.
874	40,000	.70	do. <sup>1</sup> .....	Lumber, n. o. s.
		.80		
875-B	60,000	.65	Chicago.....	Lumber, ash, basswood.
878	30,000	1.50	All <sup>1</sup> .....	Creamery and cheese factory machinery.
880	30,000	1.40	do. <sup>1</sup> .....	Engines, internal combustion.
882	30,000	1.50	do. <sup>1</sup> .....	Lawn mowers, power.
884	30,000	1.50	do. <sup>1</sup> .....	Machinery and machines.
894	30,000	1.50	do. <sup>1</sup> .....	Saw, etc.
898	40,000	1.25	do. <sup>1</sup> .....	Malted milk.
902	36,000	1.00	do. <sup>1</sup> .....	Marble, granite, etc.
910	24,000	1.60	do. <sup>1</sup> .....	Meters and regulators.
914	30,000	1.50	do. <sup>1</sup> .....	Mills, back, bone, etc.
916	30,000	1.40	do. <sup>1</sup> .....	Mining and dump cars.
926	12,000	2.00	do. <sup>1</sup> .....	Musical instruments.
940	30,000	1.50	do. <sup>1</sup> .....	Nuts, edible, except peanuts.
948-A	Rule 11.	.75	do. <sup>1</sup> .....	Oil, creosote, in tank cars.
952	30,000	1.50	do. <sup>1</sup> .....	Oil-well outfits.
976	30,000	1.40	do. <sup>1</sup> .....	Books, periodicals, etc.
980	24,000	1.65	do. <sup>1</sup> .....	Boxes, paper or fiber board.
994	Rule 11.	.60	Chicago.....	Pine tar, in tank cars.
996	60,000	.55	do. <sup>1</sup> .....	Pitch and tar.
1006	30,000	2.00	All <sup>1</sup> .....	Photographic dry plates.
1008	40,000	1.30	do. <sup>1</sup> .....	Cement and concrete bathtubs.
1012-A	30,000	1.60	do. <sup>1</sup> .....	Iron or steel bathtubs.
1016	40,000	1.25	do. <sup>1</sup> .....	Iron or steel fountains.
1018	40,000	1.25	do. <sup>1</sup> .....	Iron or steel sinks.
1020	40,000	1.25	do. <sup>1</sup> .....	Laundry tubs, ranges, etc.
1034	36,000	.75	do. <sup>1</sup> .....	Pulp wood.
1038	30,000	1.35	do. <sup>1</sup> .....	Pumps, etc.
1044	24,000	1.50	do. <sup>1</sup> .....	Pumps, spraying.
1064	40,000	1.50	do. <sup>1</sup> .....	Railway supplies.
1080	40,000	.55	Chicago.....	Resin.
1082	40,000	.60	do. <sup>1</sup> .....	Rice.
		.65		

<sup>1</sup> Eastern defined territories, groups A to F, inclusive.

Item No.	Carload minimum.	Rate to coast.	Rate applies from eastern defined territories west of the points named below.	Commodity.
1084	40,000	\$0.85	All <sup>1</sup> .....	Rice flour.
1086	30,000	1.50	do.....	Road-making or road-grading implements
1098	24,000	1.75	do.....	Rubber clothing.
1102-B	16,000	2.20	do.....	Rubber pneumatic tires.
1108	24,000	1.60	do.....	Sad irons.
1114-A	60,000	.50	Chicago.....	Sand, etc.
1115	80,000	.40	do.....	Sand, silica.
1132	30,000	.85	All.....	Sheep dip.
1146-A	36,000	1.50	do.....	Soda-fountain supplies.
1168	24,000	1.50	do.....	Stove cabinets, fireless cookers.
1170	30,000	1.50	do.....	Furnaces.
1174	24,000	1.50	do.....	Gas grates.
1176	24,000	1.50	do.....	Ovens, bakers'.
1188	36,000	1.00	do.....	Sugar.
1191-A	60,000	1.00	do.....	Sulphur.
1198	Rule 11.	.80	do.....	Cheese and molasses in tank cars
1204-A	24,000	1.75	do.....	Tanning machines.
1206	40,000	1.25	do.....	Tallow.
1208	12,000	2.00	do.....	Tan's, oil.
1210	Rule 11.	1.15	do.....	Tanning extract in tank cars
1217	40,000	1.25	do.....	Tea.
1225	30,000	2.25	do.....	Tin-foil.
1228	30,000	2.00	do.....	Tobacco, cigarettes.
1244	40,000	1.25	do.....	Smoking, plug.
1254	30,000	1.40	do.....	Trucks, store.
1256	12,000	2.60	do.....	Trunks.
1258	40,000	.85	Chicago.....	Trunk slats.
1262	Rule 11.	1.25	All <sup>1</sup> .....	Turpentine, in tank cars
1306-A	17,500	2.50	do.....	Motorcycles.
1310-A	36,000	1.75	do.....	Front axles.
1312	30,000	2.00	do.....	Wooden wheels.
1314	30,000	2.50	do.....	Wind shields, etc.
1324	30,000	1.50	do.....	Wire aluminum.
1340	32,000	1.50	do.....	Wool in grease.
1342	20,000	2.25	do.....	Wool scoured.
1352	40,000	1.25	do.....	Zinc plate, slab and sheet.
1366-D	60,000	.85	do.....	Canned goods.

<sup>1</sup> Eastern defined territories, groups A to F, inclusive.

The issues in this case and the evidence offered do not afford a foundation upon which we could properly make a finding as to the reasonableness of each of the rates which should be established on the items named above either to the coast or to the intermediate points. This must be done in the first instance by the carriers with due regard for all of the commercial, transportation, and competitive conditions affecting this traffic. In those instances in which the rates that can be secured to the coast points are of sufficient volume to admit of their grading to intermediate points the commodity rates to intermediate points should be graded or grouped in such manner as the varying conditions in the territory served appear to warrant. The commodities not named above upon which the rates to coast points are lower than to intermediate points constitute a very important list of articles upon which, under ordinary conditions, some fourth section relief should be granted. We think now that these rates to coast and interior should be realigned to conform with the long-and-short-haul rule. The realignment on these articles probably can not be maintained permanently. While there are many reasons to believe that ultimately some plan of grading the rates on these articles from eastern defined territories to the inter-



mediate points should be effectuated, the issues in this case are not such as to permit us, if we desired to do so, to prescribe such a plan of grading. Furthermore, the time is not opportune. Nothing in this report must be construed as authorizing the carriers to increase any rates to intermediate points except points to which rates are now constructed by the addition of arbitraries or locals to the coast rates.

#### LESS-THAN-CARLOAD COMMODITY RATES WESTBOUND.

There are 117 items of less-than-carload commodity rates in the schedule B list upon which the rates vary from \$1.60 to \$5. There are 90 of these items to which rates apply varying from \$1.60 to \$2.50. Sixty of them take a rate of \$2 and 14 a rate of \$2.20. Fifty-four of these 74 items are articles which are classified as first class in western classification upon which the class rates to the Pacific coast are \$3 from the Missouri River and \$3.70 from New York. The commodity rate applied to the coast is from 54 to 73 per cent of the class rate on the same articles. Fourteen of the 74 items are classified as second class and the class rates to the coast are \$2.60 from the Missouri River and \$3.20 from New York. The commodity rates on these articles to the coast are, therefore, from 62½ to 84 per cent of the class rates.

There are 90 items in the schedule C list now moving on commodity rates of from \$1.50 to \$2. Two of these are classified as first class, 33 as second class, 29 as third class, and 26 as fourth class. The commodity rates are approximately 80 per cent of the class rates from the Missouri River to the Pacific coast. There are 19 second-class items in this schedule C taking a rate of \$1.75 to the Pacific coast. Where a rate can be secured which is higher than \$2.50 it would appear unlikely that such rates have been affected in any material degree by water competition and such articles should move either on class rates or on rates which accord with the long-and-short-haul rule. It is our opinion that relief should not be afforded on any article taking a commodity rate higher than \$2.50 even under normal conditions or such conditions as existed during the year following the opening of the Panama Canal.

We are of the opinion that the rates upon the other less-than-carload items in these lists are unreasonably low and have been depressed by reason of water competition. The rates on these articles should for the present be realigned to accord with the long-and-short-haul rule. If the carriers desire to continue commodity rates on these articles to the Pacific coast which are less than the class rates applicable thereto, the rates to intermediate points on the same articles should be constructed in such manner that they bear to the class rates to the intermediate points the same proportion as the

readjusted commodity rates to the Pacific coast bear to the class rates to the coast. That is to say, if the commodity rate on any article from the Missouri River to the Pacific coast is readjusted and made, for example, 80 per cent of the class rate from the Missouri River to the Pacific coast, commodity rates should also be established from the Missouri River to intermediate points which are approximately 80 per cent of the class rates on the same articles from the Missouri River to these points.

#### EASTBOUND COMMODITY RATES.

By Fourth Section Applications 9813, 10110, 10126, 10155, 10186, and 10189 the Southern Pacific Company-Atlantic Steamship lines and the Atchison, Topeka & Santa Fe Railway Company in connection with the Mallory Steamship Company, sought and obtained authority from the Commission to reduce the rates on barley, beans, canned goods, asphaltum, wine, and dried fruits from California ports, via rail-and-water lines through Galveston, Tex., to Atlantic seaboard ports, while maintaining higher rates from, to, and between intermediate points. These applications were made early in the year 1915, when the boat lines operating via the Panama Canal were actively engaged in building up business via their routes and were in fact transporting a very large percentage of the tonnage of these commodities at rates from 10 to 40 cents lower than the rates which the rail-and-water lines then sought to establish. The order issued in *Reopening Fourth Section Applications, supra*, rescinded, effective September 1, 1916, the fourth section orders issued responsive to the fourth section applications above named. As before stated, the schedules filed with the Commission effective September 1, naming increased rates on these commodities, were suspended until December 30, 1916, and subsequently canceled. The schedules which became effective March 1, 1917, had the effect of increasing the rates on these commodities by 10 cents per 100 pounds. Although it is clearly apparent that there is no necessity on account of existing competition by water for the maintenance of lower rates from the ports on these commodities than the rates from and to intermediate points, the carriers seek authority to continue these rates that they may be prepared for the water competition when it returns. Dealers in these commodities, both on the Pacific coast and in the eastern territory, support the application of the carriers. There was very little offered in evidence by carriers or interveners respecting the level of rates which might reasonably be applied on these commodities. Some testimony was offered by certain interveners as to the rate applied on dried fruit in bags, as compared to the rate applied on

the same commodity in boxes, tending to show that the transportation conditions did not justify a difference of 20 cents in the two rates. As to this matter we express no opinion. Testimony was offered on behalf of certain wine shippers in California, urging that the shippers of wine in barrels were at a disadvantage as compared with the shippers of wine in tank cars. In *Lachman & Co. v. S. P. Co.*, 42 I. C. C., 440, we found that the existing relation in these rates did not result in unlawful discrimination against the shippers of wine in barrels. We can see now no justification for the continued maintenance of lower rates on any of these commodities from the Pacific ports to the Atlantic seaboard than are applied from to, or between intermediate points. As heretofore stated, it is fundamental that if relief from the fourth section is to be granted as to any traffic there must exist at the competitive point an actual necessity for the maintenance of the lower rate at that point. This necessity should be so controlling as to prevent the carrier from securing the traffic at higher rates. This necessity as to this traffic in California products does not now exist, and the maintenance of lower rates from the coast points than from intermediate points under existing circumstances is clearly unwarranted.

We have considered carefully all of the facts urged by the carriers in support of their applications for authority to continue lower rates to the coast than to intermediate points, the statements made by representatives of shippers and receivers of freight, at the coast cities in the eastern shipping territory, and in the intermountain section. We have stated that the rates, both eastbound and westbound, should be revised at this time in such manner as to bring them into accord with the long-and-short-haul rule. When the water competition will return in force and in controlling amount between the two coasts is uncertain. We are of opinion that the carload rates on all of the commodities in schedules B and C shown in the present transcontinental tariffs, with the exception of those we have above enumerated by item number and caption, have been affected by water competition to such extent as to justify some fourth section relief under normal conditions. We are of opinion that the less-than-carload commodity rates which are less than \$2.50 per 100 pounds have been brought about as the effect of water competition and that some fourth section relief is justified on these commodities under normal conditions. When the water competition again becomes sufficiently controlling in the judgment of the carriers to necessitate the reduction of the rates to the coast cities to a lower level than can reasonably be applied at intermediate points, the carriers may bring the matter to our attention for such relief as the circumstances may justify. Competent



proof must be submitted in connection with such applications of a fairly regular water service between the two coasts; the adaptability of the traffic to water competition; principal points of origin of the traffic; range of rates afforded by the water lines; principal points of consumption; and the ports upon the two seaboard at which the water carriers receive and deliver freight.

We are not unmindful of the claims of the carriers concerning the disadvantage under which they labor in being unable to reduce their rates promptly when necessitated by the competition of the water carriers. One of the primary purposes of the act to regulate commerce was to preserve competition between carriers. Competition involves a striving between or among two or more persons or organizations for the same object. There can exist no even-handed striving between two persons when one is bound and the other is free, and the maximum of real and effective competition can not exist between these boat lines and rail lines when one side is free promptly to make any rate it desires, while the other is so restricted by statutory requirement as to be unable to take the necessary steps for the prompt protection of its business. We are, however, also mindful that one of the primary purposes of building the Panama Canal was to assist in the development and maintenance of an active, efficient, and profitable water service between the two coasts. It is not our purpose to put upon these carriers any undue hardship in their attempt to meet such competition as the future holds for them. Such fourth-section applications as they may find it necessary to make with reference to this traffic will be disposed of with such celerity as the circumstances may permit. Neither is it our purpose to permit the maintenance of rates to or from Pacific coast points at a level that will render this service unattractive to the boat lines.

An order will be entered denying the authority sought by these applications to continue lower rates on commodities to more distant than to intermediate points and rescinding all previous orders entered in regard thereto.

The complaint in No. 9278 apparently will be satisfied by the decision above announced.

The evidence in No. 9258 is not sufficient to enable us to prescribe the relation between the rates from Kansas City and points farther east to intermountain points, and the case will be dismissed.

We append two maps showing the boundaries of the transcontinental groups A to F, inclusive, in one case on traffic destined to California terminals, and in the other case on traffic destined to north coast terminals.

HARLAN, *Commissioner*, dissenting:

That the intermountain territory in the past has labored under unnecessary rate disadvantages sufficiently appears from the Commission's reports in various proceedings in which those rates were under consideration; and in so far as the findings of the majority in this proceeding require the correction of any unlawful inequalities against that territory in the present rate adjustments of the defendant carriers, I fully concur. The Pacific coast cities are entitled to such advantages as properly flow from the competition of carriers both by rail and by water for their traffic; but the all-water route through the Panama Canal must not be used by the carriers or accepted by the Commission as a basis for giving to those ports all-rail rates that are lower than the influences of the water routes require and which therefore would be unduly prejudicial of the intermountain territory. The rate relationship of the two territories ought to rest only on such influences as are substantial and controlling; and at any cost in time and labor the Commission should see that the intermountain territory has a rate structure and a rate relationship that are reasonable and fair in the light of all the conditions surrounding the transportation of traffic to and from that section of the country.

In the carefully prepared report of the majority an effort has been made to clear the schedules before us of any remaining maladjustments by ascertaining what commodities have not customarily moved to and from the Pacific coast by water and yet have been accorded for the all-rail service rates that are lower than the rates to the less distant intermountain markets. A no less careful examination has been made to ascertain what commodities there are that may and do move by water between the Atlantic and Pacific coasts but have taken rates for the all-rail service across the continent that are lower than the influence of the water competition has justified. A number of rates of both kinds are referred to in the report, and I am in hearty accord with the finding that they are unduly prejudicial of the intermountain territory and must be promptly revised.

The feature of the majority report in which I am unable to acquiesce and which did not seem sound to me when first announced in *Reopening Fourth Section Applications*, 40 I. C. C., 35, is the ruling that as the water competition between the coasts "has suffered an interruption" growing out of the war, the rail carriers, until the pre-war conditions are restored, may not lawfully continue the so-called terminal rates at the Pacific coast ports. The majority, as will be noted, "do not consider the water competition between the two coasts as having been eliminated." Nevertheless, as vessels formerly in the coast to coast service and vessels of companies specially incorporated for that service have been drawn tempo-

rarily into the European service, the report, until their return, requires the abandonment, with all the commercial disturbances that may follow, of a relationship in the carriers' all-rail rates, as between the Pacific coast ports and the intermountain territory, that has been in effect to a greater or less extent for 30 or 40 years. Even so far back as the days of the clipper sailing vessels, the water route around the horn is shown by the record to have had a direct influence upon the rates of the all-rail lines to the Pacific coast. Later the ocean-and-rail route by way of the Tehauntepec Isthmus exerted an even more definite influence on the all-rail rates from coast to coast. The ocean-and-rail routes through the Gulf ports have also had some effect in fixing the level of the all-rail rates across the continent. Finally, the Panama Canal was constructed at great public cost and largely for the purpose of tying the two coasts together by an all-water route that will endure, supposedly at least, for all time to come; and the new merchant marine now under construction gives us assurance that this great national all-water highway must necessarily be a permanently vital factor in the coast-to-coast commerce.

In the development of transportation nothing has yet appeared to suggest that commerce will ever move by land so cheaply as by the natural water routes. So far, therefore, as may now be anticipated the all-water route through the canal must control and for the generations to come be the basis, in a large degree, of the trade and commercial relations between the intermountain cities and the competing communities that are favored by being ports on the Pacific Ocean. And unless the economic advantage of being terminals for an all-water route from coast to coast be taken away from the Pacific coast cities by some upheaval of nature or by legislation, they apparently will have in the future what they always have had in the past, namely, lower all-rail rates, on commerce that can and does move freely by water, than the less distant intermountain cities in the nature of things may expect to have. In all countries important cities are to be found, the prosperity and commanding position of which grow largely out of the fact that they are on the water and therefore have the benefit of that cheaper mode of transporting their commerce; and in many reported cases we have said that such communities may not lawfully be deprived of the benefits of their location on navigable waters by compelling the rail carriers that serve them to maintain rate adjustments that ignore that natural advantage.

Although it "has suffered an interruption," the majority report reassuringly predicts that "this service" through the canal "will be reestablished" in time. It points out also that "the canal and the oceans are still available for commerce" at this time. Nevertheless,



so far as its present influence on the coast-to-coast commerce is concerned, the majority look upon the Panama Canal as a negligible quantity. To this view of the present relation of that great national enterprise to the commerce of the country I am unable to give my assent. Case after case may be cited from the reported decisions of the Commission where actual water competition had altogether ceased and the continuance of such rate relationships was nevertheless sanctioned and approved because of the potential competition growing out of the availability of an open water route. This principle is here set aside, as I read the majority report, with the result that the established trade and commercial relationships of the coast cities, in the commodities and merchandise affected by the rate readjustments required under the report, may be torn up by the roots. I do not find any provision in the act to regulate commerce as amended that either requires or justifies any such consequences. While that act embodies some rigorous and inflexible principles the strict enforcement of which is vitally necessary in the common interest, it is nevertheless remedial in its general nature and in many particulars vests in the Commission a liberal discretion, in the exercise of which a practical rather than a technical view should be taken, especially of such questions as are here under consideration.

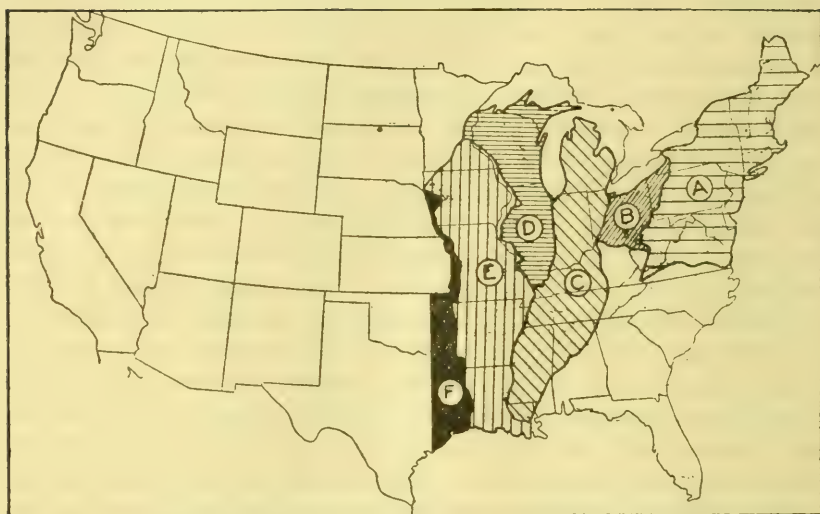
Values change with the point of view. If the important thing to these two competing territories is a fluctuating system of rates that will respond to abnormal and temporary changes of conditions, then the majority report is not without force in the disposition it makes of the questions presented by the record. But in that event it does not go far enough. If the canal is blocked for a few weeks by a slide—and as I understand the record, the reopening of this case was primarily based upon such an incident—the all-rail rates to the Pacific coast should at once, yet only for the period of such temporary interruption, be put on the normal all-rail basis and be freed from the depressing influences of water competition; and this also should be the result if a shipment is offered to the rail lines on Monday and it is found that no vessel sails until Saturday. On the other hand, if enduring and fundamental conditions ought to control, and if stability in rates and in the conditions under which the trade and commercial relations of these two territories must be conducted from day to day through the years to come is more conducive to their real welfare and to their sound future development, as I take to be the case, then the conclusions of the majority, in my judgment, are without justification.

The readjustment now required by the majority is to continue, as their report indicates, only during the remainder of the war and until commerce again moves through the canal. If the resumption of the

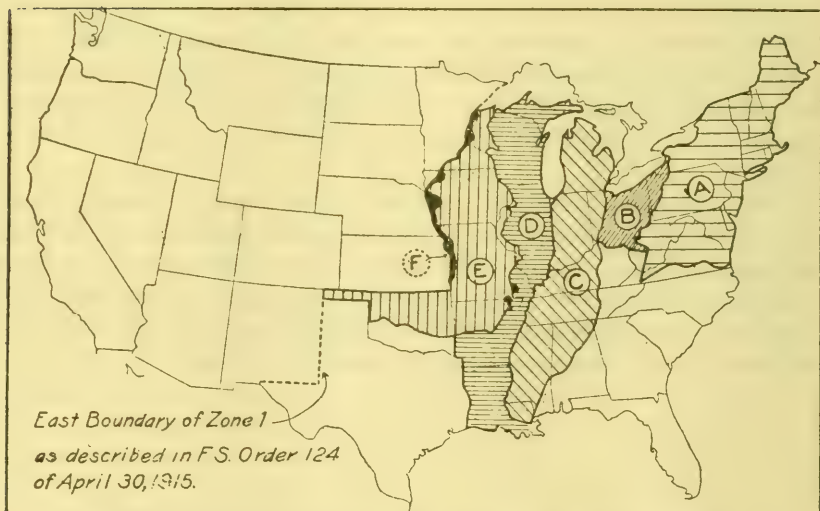
water traffic may reasonably be anticipated in the near future, the disruption, coming nearly three years after the war commenced, of the present relations between the Pacific coast and the intermountain territory would seem to be highly unnecessary and undesirable. But even if the war conditions should continue and the resumption of commerce through the canal should not take place for two or three years longer, that would be but a moment of time compared with the period during which the present rate relationship has existed, and compared with the indefinite future during which, so far as we may now see, that general relationship must continue, because of the fixed and lasting character of the controlling natural conditions that we have been considering. The temporary interruption of the present relationship either for a few months or for several years, if the war conditions continue so long, can contribute nothing of substantial or continuing value to the prosperity of the intermountain territory. Its only effect will be to put the two territories temporarily out of line with what must necessarily be the course of their future relationship. During the period of the interruption the merchants of the intermountain cities may have a larger business than they otherwise would, while the merchants of the coast cities may have to pay materially higher rates on their traffic. The business of the intermountain jobbers will be speeded up while the business of the coast jobbers will be slowed down. These advantages, however, will be but temporary: they will not be constructively helpful to the intermountain territory or be of real aid in its future upbuilding; and in the meanwhile the merchants of both the competing territories will be left in perturbation and doubt respecting the contracts and commercial engagements that they may safely make while the purely provisional rate adjustment required under the majority report is in effect.

In my judgment, rates and trade relations, based on conditions so permanent and enduring as the coast to coast water route through the Panama Canal, ought to be stable and secure against needless fluctuations, and I see no warrant either in the law or upon the record for now throwing both into sudden and violent confusion because of purely abnormal and temporary conditions.

# APPENDIX.



Eastern defined territories A to F on traffic to California terminals.



East Boundary of Zone 1  
as described in F.S. Order 124  
of April 30, 1915.

Eastern defined territories A to F on traffic to north coast terminals.



Statement showing commodity rates to points taking "terminal rates" named in I. C. C. No. 1019, of R. H. Countiss, agent.

[Rates in cents per 100 pounds, except as noted.]

Commodity.	Item No.	Minimum C. L. weight	From groups—					
			A	B	C	D	E	F
Acetone.....	300.....	36,000				100	100	
Agricultural implements:								
Reapers.....	304.....	24,000	125	125	125	125	125	
Hay presses.....	306.....	24,000	125	125	125	125	125	
Hay forks and carriers, etc.	308-A.....	24,000	125	125	125	125	125	
Land rollers, etc.....	310.....	24,000	125	125	125	125	125	
Plows, harrows, etc.....	312.....	24,000	125	125	125	125	125	
Seed drills, etc.....	314.....	24,000	125	125	125	125	125	
Stump pullers.....	316.....	24,000	125	125	125	125	125	
Feed and ensilage cutters, etc.....	320.....	24,000	150	150	150	150	150	
Hand implements.....	326.....	24,000	135	135	135	135	135	
Parts for agricultural im- plements.....	328.....	40,000	100	100	100	100	100	
Aluminum and aluminum articles.....	330.....	20,000	165	165	165	165	165	
Ammonia, anhydrous.....	332.....	30,000	100	100	100	100	100	
Ammunition and gun imple- ments.....	336.....	40,000	100	100	100	100	100	
Argols.....	340.....	40,000	100	100	100	100	100	
Arsenate of lead.....	342.....	40,000	85	85	85	85	85	
Asbestos.....	344.....	24,000	100	100	100	100	100	
Bags, cotton.....	350.....	30,000	125	125	125	125	125	
Baking powders.....	352.....	36,000	100	100	100	100	100	
Barytes, limestone and whit- ing.....	354-B.....	60,000			162½	50	50	
Beans, lentils, and peas.....	356.....	40,000	85	85	85	85	85	
Beehives.....	358.....	36,000	100	100	100	100	100	
Beverages and tonics.....	362-B.....	30,000	100	100	100	100	100	
Benzol, naphtha, etc.....	363.....	40,000	90	90	90	90	90	
Bicycles.....	364-A.....	10,000	250	250	250	250	250	
Billiard tables.....	366.....	24,000	145	145	145	145	145	
Blackboards.....	370.....	30,000	125	125	125	125	125	
Blowers, drills, and forges.....	372.....	24,000	150	150	150	150	150	
Boards, straw or chip.....	380.....	40,000	100	100	100	100	100	
Bottle, can, or fruit jar caps.....	386-A.....	30,000	125	125	125	125	125	
Bottles, etc.....	388.....	30,000	85	85	85	85	85	
Do.....	390.....	30,000	75	75	75	75	75	
Do.....	392-C.....	30,000	125	125	125	125	125	
Bowling alley material.....	396.....	30,000	130	130	130	130	130	
Boxes or crates.....	398-A.....	36,000				100	100	
Brass, bronze, or copper goods.....	400-B.....	30,000	150	150	150	150	150	
Do.....	402.....	16,000	165	165	165	165	165	
Brass tubes.....	404.....	40,000	115	115	115	115	115	
Tubing, iron, brass covered.....	406.....	40,000	100	100	100	100	100	
Brick, earth, and cement.....	407.....	40,000	100	100	100	100	100	
Butchers' blocks.....	414.....	30,000	85	85	85	85	85	
Candles.....	418.....	40,000	100	100	100	100	100	
Canned goods.....	420-B.....	40,000	110	110	110	110	110	
Carbon black.....	422.....	24,000	150	150	150	150	150	
Cards, sample.....	426-A.....	24,000	220	220	220	220	220	
Carpeting, rugs, and mats.....	428-A.....	30,000	125	125	125	125	125	
Cash registers.....	434.....	30,000	250	250	250	250	250	
Cement, liquid.....	435.....	40,000	100	100	100	100	100	
Cement, building or paving.....	440.....	40,000				60	60	
Buckwheat and buckwheat flour.....	456-A.....	50,000	80	80	80			
Wheat (except buckwheat).....	{466-B..... 467-B.....}	60,000				67	62½	58
Breakfast foods, etc.....	468.....	24,000	90	90	90	90	90	
Cheese.....	472-A.....	40,000	200	200	200			
Cider and vinegar.....	474.....	40,000	90	90	90	90	90	
Chains, automobile tire.....	469.....	40,000	100	100	100	100	100	
Terra cotta.....	486.....	40,000	75	75	75	75	75	
Clothes wringers, etc.....	492.....	36,000	100	100	100	100	100	
Clothespins.....	494.....	30,000	100	100	100	100	100	
Clothing.....	496-C.....	20,000	150	150	150	150	150	
Oilskin clothing.....	502.....	24,000	160	160	160	160	160	
Clothing, underwear, etc.....	504.....	20,000	150	150	150	150	150	
Cocoa, chocolate, etc.....	510.....	30,000	125	125	125	125	125	
Coffee.....	512.....	30,000	110	110	110	110	110	
Cooling room material.....	516.....	24,000	135	135	135	135	135	
Cotton or cotton linters.....	522-F.....	20,000	95	95	95	95	95	
Do.....	522½-A.....	20,000	85	85	85	85	85	

¹ Applies only from Nicholasville, Ky.

Statement showing commodity rates to points taking "terminal rates" named in I. C. C. No. 1019, of R. H. Countiss, agent—Continued.

[Rates in cents per 100 pounds, except as noted.]

Commodity.	Item No.	Minimum C. L. weight.	From groups—					
			A	B	C	D	E	F
Cream separators.....	528.....	36,000	115	115	115	115	115	115
Doors, rolling.....	530.....	30,000	125	125	125	125	125	125
Depilatory.....	529.....	40,000				85	85	
Dressing or blacking.....	531.....	30,000	110	110	110	110	110	110
Drugs, medicines, and chemicals.	536-A.....	24,000	120	120	120	120	120	120
Dry goods, batts, etc.....	548.....	30,000	110	110	110	110	110	110
Dry goods, spool thread, etc.....	552.....	24,000	150	150	150	150	150	150
Earthenware and stoneware.....	558-A.....	24,000	115	115	115	115	115	115
Electrical goods.....	564.....	30,000	160	160	160	160	160	160
Do.....	566.....	30,000	125	125	125	125	125	125
Do.....	568.....	30,000	125	125	125	125	125	125
Do.....	572-A.....	30,000	150	150	150	150	150	150
Do.....	574.....	36,000	125	125	125	125	125	125
Do.....	576.....	16,000	200	200	200	200	200	200
Do.....	578.....	30,000	150	150	150	150	150	150
Feathers and feather pillows.....	588.....	12,000	295	295	295	295	295	295
Files or boxes, letter, etc.....	592.....	16,000	200	200	200	200	200	200
Fish, dried or smoked, etc.....	594.....	36,000	120	120	120	120	120	120
Food, poultry or stock.....	596-B.....	40,000			60	60	60	60
Foods (animal), dog biscuit, etc.....	598.....	30,000	110	110	110	110	110	110
Foundry facings, etc.....	600-A.....	60,000	85	85	85	85	85	85
Freezers, ice cream.....	604.....	24,000	150	150	150	150	150	150
Fruits, dried or evaporated.....	606.....	30,000	150	150	150	150	150	150
Furnaces or flues.....	620.....	24,000	150	150	150	150	150	150
Bedsteads, brass.....	626.....	30,000	150	150	150	150	150	150
Bedsteads, iron.....	628.....	30,000	110	110	110	110	110	110
Bedsteads, iron, etc.....	630.....	30,000	125	125	125	125	125	125
Camp furniture.....	634.....	30,000	110	110	110	110	110	110
Wooden stock for furniture.....	640.....	30,000	100	100	100	100	100	100
Iron theater chairs.....	642.....	24,000	170	170	170	170	170	170
Church pews.....	644.....	20,000	170	170	170	170	170	170
Mattresses, springs, etc.....	658.....	20,000	110	110	110	110	110	110
Tables and stands.....	668-A.....	30,000	125	125	125	125	125	125
Table slides.....	670.....	40,000	115	115	115	115	115	115
Beverages.....	684-A.....	30,000	75	75	75	75	75	75
Glass and glassware.....	686.....	16,000	150	150	150	150	150	150
Glass deck plates, etc.....	688.....	40,000	110	110	110	110	110	110
Glass, plate, etc.....	690.....	30,000	150	150	150	150	150	150
Glass, rough rolled.....	692.....	36,000	125	125	125	125	125	125
Glassware, n. o. s.....	696.....	30,000	110	110	110	110	110	110
Glass, window, common.....	698.....	50,000	90	90	90	90	90	90
Glue.....	702.....	30,000	85	85	85	85	85	85
Glycerin, in packages.....	704-C.....	40,000	75	75	75	70	70	75
Glycerin, in tank cars.....	706-B.....	Rule 11	75	75	75	75	75	75
Gocarts, sulkies, etc.....	708.....	20,000	175	175	175	175	175	175
Gocarts, baby buggies, etc.....	710.....	12,000	220	220	220	220	220	220
Graphite articles.....	712.....	30,000	100	100	100	100	100	100
Grease, axle.....	714.....	40,000	90	90	90	90	90	90
Grindstones and frames.....	716.....	36,000	80	80	80	80	80	80
Gums, copal, etc.....	720.....	30,000	100	100	100	100	100	100
Hames, harness, wooden.....	728.....	30,000	100	100	100	100	100	100
Handles, wooden.....	730.....	36,000	125	125	125	125	125	125
Handles, broom and mop.....	732.....	40,000	85	85	85	85	85	85
Hardware and tools, hangers, etc.....	736.....	36,000	110	110	110	110	110	110
Pulleys, hinges, etc.....	738.....	36,000	110	110	110	110	110	110
Sandpapers, etc.....	740-B.....	36,000	110	110	110	110	110	110
Hardware and tools, wheels, grinding, etc.....	744.....	36,000	110	110	110	110	110	110
Peavies, cant hooks, etc.....	748-A.....	36,000	125	125	125	125	125	125
Picks, axes, etc.....	750.....	36,000	125	125	125	125	125	125
Anvils, vises, etc.....	752.....	40,000	100	100	100	100	100	100
Harness and horse collars.....	754.....	20,000	225	225	225	225	225	225
Hollow ware, cast iron, etc.....	762.....	30,000	120	120	120	120	120	120
Hoops, wooden, coiled.....	763-A.....	30,000			90	85	85	
Hose, etc.....	766.....	30,000	125	125	125	125	125	125
Incubators and brooders, etc.....	776.....	24,000	135	135	135	135	135	135
Ink, maulage, etc.....	778-A.....	30,000	100	100	100	100	100	100
Iron and steel, articles of:								
Architectural, etc.....	782.....	30,000	130	130	130	130	130	130
Axles, etc., for vehicles.....	784.....	40,000	100	100	100	100	100	100
Barrels drums, and kegs.....	786-A.....	16,000	135	135	135	135	135	135
Do.....	786-A.....	22,000	120	120	120	120	120	120

<sup>1</sup> Applies only from Bayou La Batre, Ala.

Statement showing commodity rates to points taking "terminal rates" named in I. C. C. No. 1019, of R. H. Countiss, agent—Continued.

Commodity.	Item No.	Minimum C. L. weight.	From groups—					
			A	B	C	D	E	F
Iron and steel, articles of—								
Continued.								
Barrels steel, k. d. ....	788. ....	36,000	100	100	100	100	100	.....
Brick siding, etc. ....	792. ....	40,000	110	110	110	110	110	.....
Castings, etc. ....	794. ....	30,000	115	115	115	115	115	.....
Coils and headers. ....	796. ....	40,000	100	100	100	100	100	.....
Conductor pipe, etc. ....	798-A. ....	20,000	120	120	120	120	120	.....
Fence, k. d. etc. ....	802. ....	35,000	100	100	100	100	100	.....
Fire plugs, hydrants, etc.	804. ....	36,000	100	100	100	100	100	.....
Forms or molds. ....	805-A. ....	40,000	100	100	100	100	100	.....
Jackscrews, etc. ....	806. ....	40,000	100	100	100	100	100	.....
Pipe, etc. ....	810-A. ....	30,000	100	100	100	100	100	.....
Range boilers. ....	812. ....	30,000	125	125	125	125	125	.....
Rolls, saw and rolling mill.	814. ....	30,000	110	110	110	110	100	.....
Safes, vault fronts and facings.	818. ....	30,000	175	175	175	175	175	.....
Sheet iron, sheet steel, etc.	820. ....	36,000	100	100	100	100	100	.....
Sheet, flat, rolled or corrugated.	822. ....	40,000	100	100	100	100	100	.....
Shutters and doors, etc.	824. ....	36,000	100	100	100	100	100	.....
Siphons, for sewer or water main.	826. ....	30,000	100	100	100	100	100	.....
Stable fittings, etc. ....	828. ....	30,000	150	150	150	150	150	.....
Stands, for street lamps, etc.	830. ....	40,000	100	100	100	100	100	.....
Stove—pipe, iron, etc. ....	822. ....	40,000	100	100	100	100	100	.....
Street car fenders. ....	834. ....	30,000	100	100	100	100	100	.....
Tanks, etc. ....	836. ....	24,000	150	150	150	150	150	.....
Vault boxes, etc. ....	838. ....	30,000	185	185	185	185	185	.....
Vault and prison work. ....	840. ....	30,000	175	175	175	175	175	.....
Jelly preparations. ....	842. ....	30,000	125	125	125	125	125	.....
Kilns, lumber drying. ....	846. ....	30,000	100	110	110	110	110	.....
Lamps and fixtures. ....	848. ....	20,000	125	125	125	125	125	.....
Leather and leather articles.	850. ....	24,000	125	125	125	125	125	.....
Do. ....	852. ....	24,000	140	140	140	140	140	.....
Lime, phosphate of. ....	858. ....	40,000	110	110	110	110	110	.....
Liquors, viz:								
Champagne. ....	864. ....	30,000	150	150	150	150	150	.....
Grape juice. ....	866-A. ....	30,000	110	110	110	110	110	.....
Liquors, n. o. s. ....	868-A. ....	30,000	125	125	125	125	125	.....
Lubricating compounds. ....	872. ....	30,000	110	110	110	110	110	.....
Lumber. ....	874-B. ....	40,000	80	80	75	70	70	.....
Lumbe ash, basswood, etc.	875-B. ....	60,000	.....	.....	65	60	30	.....
Macaroni, etc. ....	876. ....	30,000	100	100	100	100	100	.....
Machinery and machines:								
Creamery and cheese factory machinery.	878. ....	30,000	150	150	150	150	150	.....
Engines internal combustion.	880. ....	30,000	140	140	140	140	140	.....
Lawn mowers, power. ....	882. ....	30,000	150	150	150	150	150	.....
Machinery and machines.	884. ....	30,000	150	150	150	150	150	.....
Washing machines, etc. ....	886-A. ....	20,000	150	150	150	150	150	.....
Rock and ore crushers, etc.	888-A. ....	40,000	110	110	110	110	110	.....
Saws, etc. ....	894. ....	30,000	150	150	150	150	150	.....
Malte l milk. ....	898. ....	40,000	125	125	125	125	125	.....
Marble, granite, etc. ....	902. ....	36,000	100	100	100	100	100	.....
Matches. ....	904. ....	24,000	110	110	110	110	110	.....
Matting, mats and rugs, paper, etc.	906. ....	30,000	115	115	115	115	115	.....
Meters, cast iron. ....	908. ....	40,000	100	100	100	100	100	.....
Meters and regulators. ....	910. ....	24,000	160	160	160	160	160	.....
Mills, bark, bone, etc. ....	914. ....	30,000	150	150	150	150	150	.....
Mining cars and dump cars. ....	916. ....	30,000	140	140	140	140	140	.....
Mining car wheels. ....	918. ....	40,000	100	100	100	100	100	.....
Molding, mirror or picture frame.	920. ....	30,000	100	100	100	100	100	.....
Moss. ....	922. ....	20,000	150	150	150	150	150	.....
Musical instruments. ....	926. ....	12,000	200	200	200	200	200	.....
Nursery and florists' stock.	938. ....	20,000	125	125	125	125	125	.....
Nuts, edible except peanuts, not shelled.	940. ....	30,000	150	150	150	150	150	.....
Peanuts. ....	942. ....	24,000	130	130	130	130	130	.....
Oars. ....	944. ....	30,000	120	120	120	120	120	.....
Oil, creosote, in tank cars. ....	945-A. ....	Rule 11.	75	75	75	75	75	.....
Oil, creosote, in packages. ....	950-A. ....	40,000	75	75	75	75	75	.....



Statement showing commodity rates to points taking "terminal rates" named in I. C. C. No. 1019, of R. H. Countiss, agent—Continued.

Commodity.	Item No.	Minimum C. L. weight.	From groups—					
			A	B	C	D	E	F
Oil well outfits and supplies..	952.....	30,000	150	150	150	150	150	.....
Lard and lard substitutes.....	962.....	30,000	125	125	125	125	125	.....
Paper and articles of paper:								
Books, periodicals, etc.....	976.....	30,000	140	140	140	140	140	.....
Basins, cups, dishes, etc.....	978-A.....	24,000	125	125	125	125	125	.....
Boxes, paper or fiber board.....	980.....	24,000	165	165	165	165	165	.....
Boxes, strawboard.....	982.....	24,000	135	135	135	135	135	.....
Toilet paper, etc.....	986-B.....	26,000	110	110	110	110	110	.....
Pickles, etc.....	992.....	40,000	100	100	100	100	100	.....
Pine tar, in tank cars.....	994.....	Rule 11.	.....	.....	.....	60	60	.....
Pitch and tar.....	996.....	60,000	.....	.....	.....	55	55	.....
Pipe casing, etc.....	998.....	30,000	100	100	100	100	100	.....
Plaster work, etc.....	1004.....	24,000	100	100	100	100	100	.....
Photographic dry plates, etc.....	1006.....	30,000	200	200	200	200	200	.....
Plumbers' goods, viz:								
Cement, concrete bath-tubs, etc.....	1008.....	40,000	130	130	130	130	130	.....
China or earthenware tubs, etc.....	1010.....	36,000	125	125	125	125	125	.....
Iron or steel tubs.....	1012-A.....	30,000	160	160	160	160	160	.....
Do.....	1014-A.....	30,000	125	125	125	125	125	.....
Iron or steel fountains, etc.....	1016.....	40,000	125	125	125	125	125	.....
Iron or steel sinks, etc.....	1018.....	40,000	125	125	125	125	125	.....
Laundry tubs, ranges, etc.....	1020.....	40,000	125	125	125	125	125	.....
Cocks, service, etc.....	1024.....	36,000	100	100	100	100	100	.....
Wooden or fiber.....	1026.....	36,000	125	125	125	125	125	.....
Potash, chlorate of.....	1028.....	36,000	100	100	100	100	100	.....
Potash, nitrate of.....	1029.....	80,000	75	75	75	75	75	.....
Powder keg material.....	1032.....	36,000	90	90	90	90	90	.....
Pulp wood.....	1034.....	36,000	75	75	75	75	75	.....
Pumps, etc.....	1038.....	30,000	135	135	135	135	135	.....
Do.....	1040.....	36,000	110	110	110	110	110	.....
Pumps, spraying, etc.....	1044.....	24,000	150	150	150	150	150	.....
Railway supplies.....	1064.....	40,000	150	150	150	150	150	.....
Railway supplies.....	1068-A.....	40,000	100	100	100	100	100	.....
Brake shoes.....	1070-A.....	50,000	70	70	70	70	70	.....
Car wheels, etc.....	1072-A.....	40,000	80	80	80	80	80	.....
Tie plugs, etc.....	1074.....	36,000	100	100	100	100	100	.....
Refrigerators.....	1076.....	18,000	135	135	135	135	135	.....
Refuse burner material.....	1078.....	40,000	95	95	95	95	95	.....
Resin.....	1080.....	40,000	.....	.....	<sup>1</sup> 60	55	55	.....
Rice, etc.....	1082.....	40,000	.....	.....	.....	65	60	.....
Rice flour, rice meal, etc.....	1084.....	40,000	85	85	85	85	85	.....
Road making and grading implements.....	1086.....	30,000	150	150	150	150	150	.....
Roofing, metal.....	1090.....	30,000	100	100	100	100	100	.....
Root beer sirup.....	1092.....	40,000	85	85	85	85	85	.....
Rubber, crude, etc.....	1094.....	30,000	125	125	125	125	125	.....
Rubber boots and shoes.....	1096.....	30,000	125	125	125	125	125	.....
Rubber clothing.....	1098.....	24,000	175	175	175	175	175	.....
Rubber rings, fruit jar.....	1100.....	30,000	100	100	100	100	100	.....
Rubber pneumatic tires, etc.....	1102-B.....	16,000	220	220	220	220	220	.....
Rubber tires not pneumatic, etc.....	1104-A.....	30,000	125	125	125	125	125	.....
Sadirons.....	1108.....	24,000	160	160	160	160	160	.....
Sand, etc.....	1114-A.....	60,000	.....	.....	.....	50	50	.....
Sand, silica.....	1115.....	80,000	.....	.....	.....	40	40	.....
Scales and scale beams.....	1120.....	30,000	120	120	120	120	120	.....
Screens, door and window.....	1122-A.....	24,000	120	120	120	120	120	.....
Seed, beet.....	1126.....	30,000	100	100	100	100	100	.....
Sewing machines and parts.....	1128.....	20,000	150	150	150	150	150	.....
Sheep dip.....	1132.....	30,000	85	85	85	85	85	.....
Shot, iron or steel.....	1140.....	40,000	100	100	100	100	100	.....
Signs, advertising.....	1141-B.....	22,000	120	120	120	120	120	.....
Slate, roofing.....	1144.....	40,000	80	80	80	80	80	.....
Soda fountain supplies.....	1146-A.....	36,000	150	150	150	150	150	.....
Springs, auto, carriages, etc.....	1152.....	40,000	100	100	100	100	100	.....
Springs, wire.....	1154.....	24,000	110	110	110	110	110	.....
Stacker ladders, etc.....	1156.....	40,000	80	80	80	80	80	.....
Stamped ware and tinware.....	1158-A.....	22,000	120	120	120	120	120	.....
Stearic acid, etc.....	1164.....	40,000	100	100	100	100	100	.....

<sup>1</sup> Applies only from Mobile, Ala.

Statement showing commodity rates to points taking "terminal rates" named in I. C. C. No. 1019, of R. H. Countiss, agent—Continued.

Commodity.	Item No.	Minimum C. L. weight.	From groups—					
			A	B	C	D	E	F
Stoves:								
Cooking cabinets and fireless cookers.....	1168.....	24,000	150	150	150	150	150	.....
Furnaces, etc.....	1170.....	24,000	150	150	150	150	150	.....
Furnaces, cast iron, etc....	1172-A.....	40,000	110	110	110	110	110	.....
Gas grates, etc.....	1174.....	24,000	150	150	150	150	150	.....
Ovens, bakers.....	1176.....	24,000	150	150	150	150	150	.....
Cooking or heating stoves, etc.....	1178.....	24,000	130	130	130	130	130	.....
Do.....	1180.....	20,000	150	150	150	150	150	.....
Gas, gasoline, or oil stoves, etc.....	1182.....	24,000	130	130	130	130	130	.....
Radiators and coils.....	1183.....	40,000	100	100	100	100	100	.....
Water heaters.....	1184.....	20,000	170	170	170	170	170	.....
Stove boards.....	1185-A.....	36,000	100	100	100	100	100	.....
Sugar.....	1188.....	36,000	100	100	100	100	100	.....
Sulphur.....	1191-A.....	60,000	100	100	100	100	100	.....
Sweat and collar pads.....	1192.....	20,000	125	125	125	125	125	.....
Sirups, molasses, etc.....	1194-B.....	36,000	75	75	75	75	75	.....
Glucose in barrels.....	1196.....	30,000	75	75	75	75	75	.....
Glucose and molasses in tank cars.....	1198.....	Rule 11	80	80	80	80	80	.....
Talc.....	1202.....	60,000	75	75	75	75	75	.....
Talking machines, etc.....	1204-A.....	24,000	175	175	175	175	175	.....
Tallow.....	1206.....	40,000	125	125	125	125	125	.....
Tanks, oil.....	1208.....	12,000	200	200	200	200	200	.....
Tanning extract in tank cars.	1210.....	Rule 11	115	115	115	115	115	.....
Tanning materials.....	1212.....	40,000	110	110	110	110	110	.....
Tapioca, etc.....	1215-A.....	40,000	100	100	100	100	100	.....
Targets, clay or pitch.....	1216.....	30,000	110	110	110	110	110	.....
Tea.....	1217.....	40,000	125	125	125	125	125	.....
Tent pins, wooden.....	1217.....	40,000	80	80	80	80	80	.....
Tin and articles of tin:								
Tin can stock.....	1220.....	40,000	85	85	85	85	85	.....
Tin ridge caps, etc.....	1222.....	30,000	110	110	190	110	110	.....
Tin strips.....	1224.....	30,000	75	75	75	75	75	.....
Tin, pig.....	1223.....	80,000	100	100	100	100	100	.....
Tin foil.....	1225.....	30,000	225	225	225	225	225	.....
Tobacco, viz:								
Cigarettes, etc.....	1228.....	30,000	200	200	200	200	200	.....
Domestic.....	1232.....	20,000	150	150	150	150	150	.....
Smoking, plug, etc.....	1244.....	40,000	125	125	125	125	125	.....
Tow.....	1248.....	24,000	110	110	110	110	110	.....
Toys.....	1250-C.....	20,000	150	150	150	150	150	.....
Tree nails.....	1251.....	40,000	100	100	100	100	100	.....
Trucks, store, etc.....	1254.....	30,000	140	140	140	140	140	.....
Trunks, etc.....	1256.....	12,000	200	200	200	200	200	.....
Trunk slats.....	1258.....	40,000	.....	.....	85	85	.....	.....
Turpentine, etc.....	1260-A.....	30,000	125	125	125	125	125	.....
Turpentine, etc., in tank cars.	1262.....	Rule 11	125	125	125	125	125	.....
Vehicle material, viz:								
Club spokes.....	1278.....	36,000	95	95	95	95	95	.....
Hub blocks.....	1280.....	36,000	85	85	85	85	85	.....
Rims, bows, etc.....	1282.....	30,000	115	115	115	115	115	.....
Sawed felloes, etc.....	1284.....	36,000	90	90	90	90	90	.....
Rims, shafts, etc.....	1286.....	30,000	115	115	115	115	115	.....
Singletrees, etc.....	1288.....	30,000	115	115	115	115	115	.....
Spokes and hubs.....	1290.....	30,000	115	115	115	115	115	.....
Wheels, wooden.....	1292.....	24,000	125	125	125	125	125	.....
Wagons, farm, etc.....	1300.....	24,000	125	125	125	125	125	.....
Motorcycles, etc.....	1306-A.....	17,500	250	250	250	250	250	.....
Vehicle parts, self-propelling:								
Front axles, etc.....	1310-A.....	36,000	175	175	175	175	175	.....
Wheels, wooden.....	1312.....	30,000	200	200	200	200	200	.....
Wind shields and frames.....	1314.....	30,000	250	250	250	250	250	.....
Wheels, motor truck.....	1313-A.....	30,000	125	125	125	125	125	.....
Washboards.....	1316.....	24,000	100	100	100	100	100	.....
Water coolers, etc.....	1318.....	22,000	120	120	120	120	120	.....
Wheelbarrows, etc.....	1320.....	24,000	100	100	100	100	100	.....
Window shades, materials, etc.....	1322.....	30,000	110	110	110	110	110	.....
Wire and wire goods, viz:								
Wire aluminum, etc.....	1324.....	30,000	150	150	150	150	150	.....
Wire cloth and netting.....	1326.....	36,000	120	120	120	120	120	.....
Wire mattress, woven.....	1332.....	20,000	120	120	120	120	120	.....

*Statement showing commodity rates to points taking "terminal rates" named in I. C. C. No. 1019, of R. H. Countiss, agent—Continued.*

Commodity.	Item No.	Minimum C. L. weight.	From groups—					
			A	B	C	D	E	F
Woodenware or fiberware....	1334-A..	16,000	150	150	150	150	150	.....
Wooden veneer dishes or plates.	1335-A..	24,000	125	125	125	125	125	.....
Bungs and plugs.....	1336.....	30,000	115	115	115	115	115	.....
Woodenware, woven.....	1338.....	16,000	165	165	165	165	165	.....
Wool in grease.....	1340.....	32,000	150	150	150	150	150	.....
Wool, scoured.....	1342.....	20,000	225	225	225	225	225	.....
Wool combings, etc.....	1344-A..	20,000	150	150	150	150	150	.....
Zinc, chloride of, etc.....	1346.....	36,000	100	100	100	100	100	.....
Zinc, plate, slab, and sheet.....	1352.....	40,000	125	125	125	125	125	.....
Anchor, iron, etc.....	1356-A..	40,000	90	90	90	90	90	.....
Bags and bagging.....	1360-A..	40,000	95	95	95	95	95	.....
Calcium, carbide of.....	1362-A..	60,000	95	95	95	95	95	.....
Calcium, chloride of, in drums.	1364-A..	60,000	.....	.....	.....	65	65	65
Canned goods.....	1366-D..	60,000	85	85	85	85	85	.....
Cocoa beans.....	1372-A..	40,000	85	85	85	85	85	.....
Coffee, green.....	1374-A..	40,000	90	90	90	90	90	.....
Compound, boiler, etc.....	1376-B..	40,000	85	85	85	85	85	.....
Cotton factory sweepings, etc.....	1378-A..	30,000	105	105	105	105	105	.....
Dry goods.....	1382-A..	40,000	100	100	100	100	100	.....
Electrical goods.....	1400-A..	40,000	90	90	90	90	90	.....
Electric pole line material, etc.	1402-A..	40,000	85	85	85	85	85	.....
Hardware and tools:								
Lawn mowers, etc.....	1410-A..	40,000	105	105	105	105	105	.....
Rail or track, door.....	1416-A..	40,000	95	95	95	95	95	.....
Screws, iron or steel.....	1424-A..	50,000	85	85	85	85	85	.....
Sledges, wedges, etc.....	1434-A..	50,000	95	95	95	95	95	.....
Hemp, sisal, etc.....	1442-A..	24,000	85	85	85	85	85	.....
Iron and steel, articles of.....	1450-E..	40,000	90	90	90	90	90	.....
		50,000	85	85	85	75	75	.....
		60,000	75	75	75	65	65	65
Balls, rough forged.....	1456-A..	50,000	90	90	90	90	90	.....
Bar, etc.....	1458-C..	80,000	75	75	75	65	65	65
Billets, blooms, etc.....	1460-A..	80,000	75	75	75	65	65	65
Bolts, nuts, etc.....	1462-C..	80,000	75	75	75	65	65	65
Butts and hinges, etc.....	1464-A..	50,000	85	85	85	85	85	.....
Castings, etc.....	1472-A..	50,000	85	85	85	85	85	.....
Chain, etc.....	1480-A..	50,000	85	85	85	85	85	.....
Crowbars, etc.....	1486-A..	50,000	85	85	85	85	85	.....
Cylinders, etc.....	1488-A..	36,000	100	100	100	100	100	.....
Elevator guides, etc.....	1490-A..	50,000	85	85	85	85	85	.....
Lathing, etc.....	1492-A..	40,000	100	100	100	100	100	.....
Nails, spikes, etc.....	1496-C..	80,000	75	75	75	65	65	65
Nails, horseshoe.....	1498-A..	50,000	85	85	85	85	85	.....
Pipe fittings, etc.....	1500-B..	50,000	80	80	80	80	80	.....
Pipe, cast iron, etc.....	1502-A..	40,000	75	75	75	75	75	.....
Do.....	1504-A..	60,000	75	75	75	65	65	65
Conduits, iron.....	1506-A..	40,000	75	75	75	75	75	.....
Pipe, wrought iron or steel.	1508-A..	40,000	75	75	75	75	75	.....
Do.....	1510-A..	80,000	75	75	75	65	65	65
Pipe bands or rods.....	1512-A..	50,000	85	85	85	85	85	.....
Plate and sheet, etc.....	1514-C..	80,000	75	75	75	65	65	65
Shafting.....	1515-A..	40,000	90	90	90	90	90	.....
Sheet, etc.....	1516-A..	50,000	85	85	85	75	75	.....
Shingle bands, etc.....	1522-C..	80,000	75	75	75	65	65	65
Shoes, horse, mule, and ox.	1524-C..	80,000	75	75	75	65	65	65
Shoes, heads, rings, etc.....	1526-A..	50,000	85	85	85	85	85	.....
Sucker rods, etc.....	1530-A..	50,000	85	85	85	85	85	.....
Tubing.....	1538-A..	40,000	85	85	85	85	85	.....
Tubing, open seam.....	1540-A..	40,000	75	75	75	75	75	.....
Wine.....	1550-A..	40,000	100	100	100	100	100	.....
Lye.....	1552-A..	40,000	85	85	85	85	85	.....
Marline and oakum.....	1554-A..	30,000	100	100	100	100	100	.....
Oil, petroleum and products.	1556-B..	( <sup>1</sup> )	90	90	90	90	90	.....
Oils, castor, cocoanut, etc.....	1558-B..	30,000	90	90	90	90	90	.....
Oils, in tank cars.....	do.....	Rule 11	90	90	90	90	90	.....
Oil, linseed, in barrels or drums.	1569-A..	45,000	85	85	85	85	85	.....
Oil, linseed, in tank cars.....	do.....	Rule 11	85	85	85	85	85	.....
Oil, cottonseed.....	1560-A..	30,000	90	90	90	90	90	.....
Oil, cottonseed, in tank cars..	do.....	Rule 11	90	90	90	90	90	.....
Oilcloth, linoleum, etc.....	1562-A..	50,000	85	85	85	85	85	.....
Paint.....	1568-B..	40,000	85	85	85	85	85	.....

<sup>1</sup> Western classification.



Statement showing commodity rates to points taking "terminal rates" named in I. C. C. No. 1019 of R. H. Countiss, agent—Continued.

Commodity.	Item No.	Minimum C. L. weight.	From groups—					
			A	B	C	D	E	F
Paper and articles of paper:								
Adding machine, book, etc.	1580-B..	40,000	100	100	100	100	100	.....
Bag and barrel linings....	1594-B..	40,000	90	90	90	90	90	.....
Book, cover, etc.....	1596-B..	40,000	90	90	90	90	90	.....
Book, news, poster, etc....	1598-B..	40,000	85	85	85	85	85	.....
Boxes, pulpboard, etc....	1600-B..	40,000	95	95	95	95	95	.....
Building, etc.....	1602-C..	40,000	85	85	85	85	85	.....
Roofing felt.....	do.....	36,000	85	85	85	85	85	.....
Paper, wall, etc.....	1604-B..	40,000	100	100	100	100	100	.....
Strawboard.....	1606-A..	50,000				65	65	65
Toilet paper and paper towels.	1608-B..	26,000	100	100	100	100	100	.....
Wrapping, not printed....	1610-B..	40,000	90	90	90	90	90	.....
Wrapping, bags, fruit, etc	1612-B..	40,000	100	100	100	100	100	.....
Writing, etc.....	1614-B..	40,000	100	100	100	100	100	.....
Potassium and sodium, cyanide of.	1616-A..	40,000	95	95	95	95	95	.....
Roofing, etc.....	1618-B..	40,000	90	90	90	90	90	.....
Sadiron.....	1620-A..	40,000	95	95	95	95	95	.....
Ship and boat spikes.....	1626-C..	80,000	75	75	75	65	65	65
Soap, etc.....	1630-C..	40,000	90	90	90	90	90	.....
Soda ash, etc.....	1638-A..	40,000				65	65	65
Soda, bicarbonate of, etc....	1640-A..	50,000	85	85	85	85	85	.....
Starch and dextrine.....	1648-A..	40,000	95	95	95	95	95	.....
Stoves, viz:								
Radiators and coils.....	1650-A..	50,000	85	85	85	85	85	.....
Sectional boilers, etc.....	1652-A..	50,000	95	95	95	95	95	.....
Stovepipe iron.....	1654-A..	50,000	85	85	85	85	85	.....
Tacks, iron, etc.....	1656-A..	50,000	85	85	85	85	85	.....
Tile.....	1662-A..	40,000	90	90	90	90	90	.....
Tin cans, pails, or boxes.....	1664-B..	24,000	100	100	100	100	100	.....
Tin and terneplate.....	1666-E..	80,000	84	75	75	65	65	65
Twine and cordage.....	1668-A..	40,000	85	85	85	85	85	.....
Wire fencing, etc.....	1672-A..	30,000	85	85	85	85	85	.....
Wire, insulated or covered...	1680-A..	50,000	85	85	85	85	85	.....
Wire rods.....	1682-C..	80,000	75	75	75	65	65	65
Wire rope, etc.....	1684-B..	50,000	85	85	85	85	85	.....
Wire telephone or electric light cable.	1686-A..	50,000	85	85	85	85	85	.....
Zinc (spelter).....	1688-A..	40,000	85	85	85	75	75	.....
Rails (steel), etc.....	1690-C..	60,000	$\left\{ \begin{array}{l} 1^2 1,600 \\ 1^2 1,570 \end{array} \right.$	$\left\{ \begin{array}{l} 1^2 1,550 \\ 1^2 1,510 \end{array} \right.$	$\left\{ \begin{array}{l} 1^2 1,300 \\ 1^2 1,300 \end{array} \right.$	$\left\{ \begin{array}{l} 1^2 1,300 \\ 1^2 1,300 \end{array} \right.$	$\left\{ \begin{array}{l} 1^2 1,300 \\ 1^2 1,300 \end{array} \right.$	$\left\{ \begin{array}{l} 1^2 1,300 \\ 1^2 1,300 \end{array} \right.$
Rail fastenings.....	1692-C..	60,000	77½	77½	77½	65	65	65

<sup>1</sup> Rates in cents per ton of 2,240 pounds.

<sup>2</sup> Applies only from specific points named in item.

Rule 11.—Cars to be loaded to full gallonage capacity.

## ORDERS.

At a general session of the INTERSTATE COMMERCE COMMISSION, held at its office in Washington, D. C., on the 30th day of June, A. D. 1917.

### Fourth Section Order No. 6790.

In the matter of reopening Fourth Section Applications 205, 342, 343, 344, 349, 350, 352, and 10336, filed by R. H. Countiss, agent, for and on behalf of various transcontinental carriers for authority to continue lower rates on certain commodities from eastern defined territory to Pacific coast ports than the rates contemporaneously applicable on like traffic to intermediate points; and in the matter of reopening Fourth Section Applications 9813, 10110, 10126, 10155, 10186, and 10189, filed by R. H. Countiss, agent, for and on behalf of The Southern Pacific Company Atlantic steamship lines, The Atchison, Topeka & Santa Fe Railway Company, and Mallory Steamship Company, respecting rates on barley, beans, canned goods, asphaltum, dried fruit, and wine from California ports to points on the Atlantic seaboard which are lower than the rates contemporaneously applicable from intermediate points.

Upon further consideration of the matters and things involved in the above-entitled case, a hearing having been held upon the applications involved, and full investigation of the matters and things involved therein having been had, and the Commission having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is ordered*, That Fourth Section Orders Nos. 124, 5409, and orders supplementary thereto and all other orders heretofore entered in response to Fourth Section Applications Nos. 205, 342, 343, 344, 349, 350, 352, and 10336, authorizing carriers to maintain rates on commodities from eastern defined territory to Pacific coast ports lower than the rates contemporaneously applicable on like traffic to intermediate points, and Fourth Section Orders Nos. 4767, 5012, 5074, 5088, 5099, 5131, and orders supplementary thereto and all other orders entered in response to Fourth Section Applications Nos. 9813, 10110, 10126, 10155, 10186, and 10189, authorizing carriers to maintain rates on barley, beans, canned goods, asphaltum, dried fruit, and wine, from California ports to points on the Atlantic seaboard lower than the rates contemporaneously applicable on like traffic from or to intermediate points, be, and they are hereby, vacated effective October 15, 1917.

*It is further ordered*, That such portions of the applications above set forth as ask for authority to maintain rates on commodities from eastern defined territory to Pacific coast ports lower than the rates contemporaneously in effect on like traffic to intermediate points, be, and they are hereby, denied, effective October 15, 1917.

*It is further ordered*, That such of the applications above set forth as ask for authority to maintain rates on barley, beans, canned goods, asphaltum, dried fruits, and wine from California ports to points on the Atlantic seaboard lower than rates contemporaneously applicable from or to intermediate points be, and they are hereby, denied, effective October 15, 1917.

*And it is further ordered*, That tariffs containing rates revised in accordance with the provisions of this order shall be made effective on statutory notice.

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No. 9258.

The Commercial Club of Kansas City, Mo.

v.

The Atchison, Topeka & Santa Fe Railway Company et al.

This case being at issue upon complaint and answers on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the Commission having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

*It is ordered*, That the complaint in this proceeding be, and it is hereby, dismissed.

By the Commission.

[SEAL.]

GEORGE B. MCGINTY,  
*Secretary.*



Mr. GARDINER. I am going to have something more to say about this Interstate Commerce Commission in a few minutes, but this thought occurs to me: What I am going to try to bring out is that the Interstate Commerce Commission has entirely abused its powers. The Commerce Court some time ago abused its power, and Congress was appealed to and the Commerce Court ceased to exist.

A close analysis of the attitude of the Interstate Commerce Commission will show you, gentlemen, that it has abused its powers, and we ask that its powers, so far as the long and short clause is concerned, be made to cease to exist by reason of a proper amendment to the interstate commerce act, the fourth section, taking away all discretion in such matters from the Interstate Commerce Commission.

I want to read one thing here. I want to show to what extent the defenders of this discrimination have been driven in trying to get these rates continued in existence. On page 252 of this opinion, which I have quoted to you, the Interstate Commerce Commission repeats an argument which is made probably by the coast jobbers. It says:

It is urged that the shipbuilding industry on the Pacific coast is in large part new. Its great development within the last year is due to extraordinary conditions, as the result of which merchant ships command a price from three to five times as great as could have been secured for similar ships two or three years ago. It is urged that this industry at this time is not able to stand material increases in these iron and steel rates. Other industries of smaller magnitude but of importance and value showed how their interests in some instances would be jeopardized by any substantial increases in these coast rates.

Our position before the commission was that nobody should be charged any more than the terminal rates on the coast, and the position was that if it was necessary to raise the Pacific coast rates in order to equalize, that is perfectly proper, but Nevada does not want to pay any more than the terminal rates, and in opposition to that these coast jobbers say here: "If we have to pay any more, we are going to be hurt." They are perfectly willing to feather their own nests on this discriminatory rate making and perfectly willing to do an injustice to the people of Nevada, but they say: "For Heaven's sake do not hurt us. You have hurt Nevada, Utah, Arizona, New Mexico, eastern Washington, and all the intermountain country all these years and given us an advantage in this discrimination and have been doing everything you could to keep back these intermountain communities, to throttle their prosperity and diminish their population; you have been doing all that you could in that direction, but for Heaven's sake do not make us pay any more. Hurt them and continue to hurt them all you want to, but leave us alone on the coast. We have gotten fat on our rates; do not bring about any diminution of our prosperity." That is the kind of argument you find urged against equal rates. You do not find anything logical or anything persuasive, but you simply find, "Do not disturb us; leave us alone; let conditions be as they are at the present time."

Now, when this opinion was delivered—it was never put into effect—we thought we had something coming our way. We thought we had approximately the relief we were entitled to, because the commission had ruled that there was no real reason why the inter-

mountain country should be charged any more than coast terminals, and had ordered the railroad companies to file schedules leveling their rates. If they wanted to lower the Nevada rate to correspond to the San Francisco rate, it was all right, and if they had to raise the San Francisco rate to make it sufficiently remunerative, and lower the Nevada rate, it was all right, but the rates had to be leveled, and the railroads came to the Interstate Commerce Commission and said, "You have overlooked something: Congress recently passed a law saying we could not raise rates without a hearing by your commission and investigation of each particular commodity upon which it is proposed to raise the rates."

Have I stated that correctly?

Mr. BARTINE. It does not state particular commodities. The law is general, but it says that no rates shall be raised without the approval of the commission.

Mr. GARDINER. Without an investigation.

Mr. BARTINE. It does not say "without an investigation." It says the Interstate Commerce Commission may do it without an investigation.

Mr. GARDINER. Anyway, the ruling of the Interstate Commerce Commission was: "It is very true you will have to come before us and file new schedules, and we will have to go into this matter very thoroughly, and in the meanwhile our whole opinion and order of June 30 will be suspended." Gentlemen, if the Interstate Commerce Commission had said to the railroads, "You have been discriminating against the people of Nevada for years and years and years: you have been charging them excessive rates; your own rates to the coast were remunerative, and we have found that out; level your prices by charging Nevada the terminal rates and no higher than the terminal rates, and then take time to compile your new schedules," you would have found the railroads running like a band of wild coyotes to get their schedules on file with the commission and having them approved. What was done? Nothing at all. The order was suspended, and we do not know for how long it will be suspended. Why was there not a ruling which would level the rates by making the Nevada rates the same as the terminal rates, when this matter was brought to their attention, and then permit the railroads to file schedules to take care of that? The Interstate Commerce Commission could say, "We can take care of you, but we are going to stop once for all this iniquitous practice of charging exorbitant rates to the people of the intermountain country. Did they do that? No. They said, 'We will give the railroads all the time they want, continuing the old iniquitous rates in effect at the same time.'"

Now, gentlemen, in 1910—let me go back a little further than that. I do not know when the fight for a change in these rates started before the Interstate Commerce Commission, but I imagine that it was about 10 years ago. Ten years have gone by and we have not yet received from the Interstate Commerce Commission the relief which we are entitled to. In 1910, Congress passed this amended fourth section of the interstate-commerce act, and it provides, "That it shall be unlawful for any common carrier subject to the provisions

of this act to charge or receive any greater compensation in the aggregate for the transportation of passengers, or of like kind of property, for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through route than the aggregate of the intermediate rates subject to the provisions of this act; but this shall not be construed as authorizing any common carrier within the terms of this act to charge or receive as great compensation for a shorter as for a longer distance."

Now, here is an amendment, a proviso—

*Provided, however,* That upon application to the Interstate Commerce Commission such common carrier may in special cases, after investigation, be authorized by the commission to charge less for longer than for shorter distances for the transportation of passengers or property; and the commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section: *Provided, further,* That no rates or charges lawfully existing at the time of the passage of this amendatory act shall be required to be changed by reason of the provisions of this section prior to the expiration of six months after the passage of this act, nor in any case where application shall have been filed before the commission, in accordance with the provisions of this section, until a determination of such application by the commission.

Now, gentlemen, Congress does not indulge in useless, senseless legislation. I suppose that when Congress passes a remedial statute it intends it to afford some remedy, within some reasonable time. That amendment was passed in 1910, and the people of Nevada, to this day, have had no relief under it and have had no relief by reason of the tactics of the Interstate Commerce Commission. Now, gentlemen, it was not contemplated in the proviso that in exceptional cases there shall be no greater charge for a short haul than a longer, but it even says that they can not charge any greater compensation as a through route rate than the aggregate of the intermediate rates, subject to the provisions of this act.

I told you a while ago that the aggregate of the rates from San Francisco to Reno, and from Reno to Elco amounted to \$1.18. I think it was, and that the rate from San Francisco to Elco was 77 cents, and that has been in operation all this time. That same condition has been in operation to all points in the intermountain country on the eastward haul. There have been westward hauls, where, notwithstanding the statute, the railroads have charged more to the intermediate points than to the coast points.

THE VICE CHAIRMAN. You say there has been no rearrangement of the rates in this section of the country since the passage of the act in 1910?

MR. GARDINER. Yes, sir; a slight lowering of the rates under a decision which took place in 1914.

THE VICE CHAIRMAN. I think, in the southeastern division, in relation to the South Atlantic States there has been such a rearrangement, and, in a great many cases, satisfactorily. Is not that true, Mr. Thom?

MR. THOM. Yes, sir; and I understand, further, that Judge Bartine has filed a report showing that millions of dollars have been saved in this western country.



The VICE CHAIRMAN. I ran for Congress in 1896 on this very proposition, because we had been outraged, but subsequently, I think, satisfaction has been given in a great many cases in our country.

Mr. GARDINER. If that state of affairs has been perfected in your country, I wish to shake hands with you and congratulate you at the end of this hearing.

The VICE CHAIRMAN. It has not been perfected; but something has been done in that direction. I do not want to go that far.

Mr. GARDINER. We have been benefited, and have been able to do some business; we have secured some reductions.

Mr. BARTINE. That was before the act?

Mr. GARDINER. We have been benefited by some reductions which have been given us. Those reductions were given us by the opinion filed by Commissioner Lane when he was on the Interstate Commerce Commission, and that helped some; but I do say that this long-and-short-haul amendment—the amended fourth section—has never been to this day put in operation by the Interstate Commerce Commission.

The VICE CHAIRMAN. In order that I may not be misunderstood, I want to amend my statement by saying, in justice to the railroads, with their customary thrift, that they did not lose anything in the aggregate in these revisions in my country; that while the slighted towns have had their rates reduced, I regret to say that the larger points—the basic points—have kicked like red steers, because the railroads have not only recouped by making good their losses on them, but have redoubled their losses and in the aggregate have made money.

Mr. GARDINER. There are some commercial centers in this country that will do some of that red steer kicking, and you will probably hear something of it before you get through with these hearings.

The VICE CHAIRMAN. You do not kick on railroads making the terminal points rates larger in order to relieve your section?

Mr. GARDINER. That is the point. I do not want to take a position that is unfair to the railroad companies. They have taken a position that is unfair to us, for years. I have almost lost all feeling of charity for the railroads, but I have some of it left, and I know, at the present time, the railroads are deserving of consideration from us. I know they have to have more revenue. I know they have to pay more for their steel and cars and employees, and all of those things are going up all the time. I do not believe that if these people make an application to the Interstate Commerce Commission for an advance, they will be refused. I believe, myself, that the Interstate Commerce Commission at the present time should be devoting nearly all its time to a discussion of this particular question, when their expenses are doubling, and trebling—perhaps that is overexaggerating it—but while they are climbing at an alarming percentage they need high rates, and higher rates should be given them.

Mr. SIMS. Your contention is, as far as I have gathered it, that as far as the intermountain country is concerned, the Interstate Commerce Commission has made the exceptions permitted under the law the general rule instead of exceptional cases?

Mr. GARDINER. Yes, sir.

Mr. SIMS. They have been applying exceptions to the whole country and consequently the law has not been applied in letter and spirit?

Mr. GARDINER. Exactly.

Mr. SIMS. I wanted to see if that was your contention.

Mr. GARDINER. Yes, sir.

Mr. SIMS. And for this you hold the commission responsible?

Mr. GARDINER. Yes, sir.

Mr. SIMS. In other words, it has exercised its discretion?

Mr. GARDINER. Yes, sir; when the amended fourth section was passed the railroad companies went to the commission and they said, in effect, "Here, we contend that in every place where we have been charging a greater rate for a short haul than for a long haul, that is an exceptional case; a special case."

The VICE CHAIRMAN. They did file applications in each special case to allow the exception in each case, and then the commission directed that they should file amended schedules showing what they wanted.

Mr. GARDINER. Yes, sir; in effect, though, the commission made a blanket order. "This section of the Interstate Commerce act is hereby suspended in every case where a railroad company wants it suspended until such time as we can investigate."

The VICE CHAIRMAN. But in the meantime they were required to present their schedules?

Mr. GARDINER. They were required to present their schedules and the whole thing to be taken over; but, gentlemen, that act went into effect in 1910 and certainly Congress intended that there should be some relief, and it did not intend that in every case where the railroad companies saw fit to charge more for a short haul than for a long haul that that was an exceptional case. But, if the commission construed it that way, for heaven's sake why, in seven years, have we not gotten to some conclusion on that subject? Why has the Interstate Commerce Commission construed every case to be a special case? I do not want to be uncharitable, but as a man who uses his brain and his thought occasionally—I may not give as much evidence of it in this hearing as I would like to—but I do use my brain and my thought occasionally, and I find it impossible for me to conceive how any body of men could ever say that a special case consists of every case which a railroad company wants to have considered. If there was some special reason it would be different, but the law was designed to remedy a condition which already existed.

Congress knew what the condition was that existed, and knew where these greater charges were made, and they wanted to remedy that condition, and, as a result, passed this law and then the Interstate Commerce Commission virtually nullifies it in every particular by saying, "We will hold up the complete operation of that act until we have investigated every case which you claim to be a special case."

It seems to me that that, without going into details, is a sufficient indictment of the Interstate Commerce Commission: our cases pending for ten long years and only partial relief in all that time; this amended Fourth Section pending for seven years and no relief within that time. Why should the burden fall on us all the while? Why, during all that period, ought we pay higher rates? Was not that Interstate Commerce Commission made to stand between the railroad

companies and the common people and to adjust things satisfactorily and speedily for the common people? On the other hand, has not the Interstate Commerce Commission stood between Congress and the railroads and kept the operation of an act of Congress from applying to the railroads?

Mr. SIMS. Do you think there ought to be a limitation on the time in which the commission should make its investigation, and if not made within that time that the discretion should cease as a matter of law?

Mr. GARDINER. Senator, regarding the Interstate Commerce Commission, I have lost all faith and hope and charity.

Mr. SIMS. You mean it ought to be abolished?

Mr. GARDINER. I mean they should be given no discretion whatever. They have had seven years to enforce a law passed by Congress, and they have not enforced it.

Mr. SIMS. Is a public instrumentality of the Government worthy of existence which can not be trusted to use its discretion, wherein nothing but a specially qualified body could use it? Ought it to exist if it can not be trusted as a public agency?

Mr. GARDINER. I do not think it should be allowed to exist as far as the long-and-short-haul clause is concerned.

Mr. SIMS. Does not that measure its attitude toward the entire railroad service?

Mr. GARDINER. I might say yes, to a certain extent, and to a certain extent no. Let me explain in this fashion: I do not want, Senator, anybody to think that I, for a moment, would criticize our President. Our President deserves our cooperation in every way, shape, or form, and he has mine to the utmost. If he had known and realized the conditions which existed out here, he would have acted differently. But he has appointed on the Interstate Commerce Commission representatives from the western coast, representatives from the east coast, and representatives from the middle eastern coast, and there is not a solitary representative of this intermountain country upon the Interstate Commerce Commission. It is true that there is a man from Denver, but Denver does not find itself in the category of the intermountain country, and therefore, Senator, when it comes to a consideration of these intermountain cases, we find ourselves being judged by the eastern coast, by the western coast, by the middle and eastern sections, and when the hearings are over and the conference is on there is no one with a complete knowledge of this intermountain situation to make any plea for us and to see that right triumphs.

I say take away discretion from the Interstate Commerce Commission as it is constituted now to grant any right under any circumstances to a railroad to make a greater charge for a short haul than for a long. I say that as constituted the Interstate Commerce Commission is not capable of doing justice to our section of the country. But there are able men on that commission, and there are a lot of other questions before them. I do not mean to say for a moment that those people are intentionally unfair and intentionally unjust. They have gone a long way toward helping us, it is true, but every time they have made a ruling in our favor there has been a string attached to it, and when we reach forward to grasp the benefits of that ruling the string is drawn and we fall forward on our faces. When



they were asked to reopen this case the last time if they had only said, "We will put into effect the rates as they actually exist, and we will give relief to the intermountain country and let you ask for higher rates," we would have had relief. But no, all the time it is, "Let the intermountain country continue to suffer; we will take care of the railroads first."

The CHAIRMAN. When was the decision by Mr. Lane to which you have referred given?

Mr. GARDINER. I think that was in 1912.

The CHAIRMAN. Was that in a matter arising under the amendment of 1910?

Mr. GARDINER. No, Senator; that was instituted long before the amendment of 1910.

Mr. THOM. We understand that it was under the act of 1910.

Mr. BARTINE. It does not make any difference what anyone understands, it did not arise under the amended fourth section. It arose under the old law. Commissioner Lane's opinion went to class rates only.

The CHAIRMAN. How do you account for it that no decision—though this amendment passed in 1910—that there was no action from the commission, according to your statement, until June 30, 1917? What was the reason of that long delay?

Mr. GARDINER. There were actions and hearings, and one thing and another, and my purpose in this presentation is not to endeavor to make any analysis of reasons why the Interstate Commerce Commission did not put that into effect. I do not care what their reasons were; the fact remains that they did not, and my criticism of the Interstate Commerce Commission is that they did not put that into effect. They have not put it into effect at the present time. They started to put it into effect in October of this year, under this opinion of June 30, and then, instead of putting it into effect, again they pulled the string and again they in effect recalled their decision; they suspended the operation of this and they are going to give the railroad companies another hearing, and I suppose our railroad commission will be carted over the country again for another series of hearings like it was carted over the country in the hearings which took place in the past years, and whether we can get any decision on this subject within the next decade I do not know.

The CHAIRMAN. Were proceedings promptly commenced after the amendment of 1910?

Mr. GARDINER. Were proceedings promptly commenced after this amendment of 1910?

The CHAIRMAN. I can not understand for my part why there should be such a long time elapse.

Senator CUMMINS. Proceedings were commenced. The affirmative was on the railroads.

Mr. BARTINE. As soon as I can get to it I will give a brief résumé of what occurred.

Mr. GARDINER. You ask if proceedings were promptly commenced after the act of 1910. The burden was not upon any of the people who were suffering by these discriminations to commence any proceedings. The railroad companies immediately rushed to the Interstate Commerce Commission and said, "Here, every case where we

are charging a greater rate for the short haul than for the long haul, is an exception. We want you to investigate that, but in the meanwhile we want you to suspend the operation of this amended act of 1910," and the Interstate Commerce Commission did suspend it.

The VICE CHAIRMAN. Yet it is the right and has been the right of every person injured to file a petition with the Interstate Commerce Commission and say that the amendment of 1910 was being violated and ask for an investigation and relief.

Mr. GARDINER. That, Senator, was the effect of the proceedings which took place right along under the petition of the railroad commission. The act was in effect all the time.

The VICE CHAIRMAN. You ought not to wait and let the railroad companies run both sides of the litigation. If you had put in your petition at the same time and asked that the suspension be not allowed there might be a different result. One reason why the railroads are successful is that they are vigorous and hire the best lawyers in the country, and they keep fighting these things. If you people would only be equally vigilant and hire lawyers and get busy, you will get by much better.

Mr. GARDINER. That was before the Interstate Commerce Commission—at the time it went into effect. The Interstate Commerce Commission realized that act was in effect and the railroad companies were fighting to have that act suspended and have all short hauls declared to be special cases, and the only fight which was necessary for the intermountain country to make was a fight to have that brought out and determined by the Interstate Commerce Commission as rapidly as it could, and that fight these different parties of the intermountain country did make and made that as rapidly as they could, but the railroad companies, notwithstanding all the diligence we have been able to exercise, have been able to keep that decision off until June 30 of this year, and then after we thought we had it they were able to come in and say, "There is another law that bears on this subject that you must look into before you enforce that order," and the Interstate Commerce Commission is now looking into it.

Mr. SIMS. How does that last act affect the decision of the Interstate Commerce Commission under the former act—the act of 1910?

Mr. GARDINER. It affects it in this particular, that the claims of the railroads are that there must be an investigation to determine by the Interstate Commerce Commission whether or not they have the right to raise the coast rates.

Mr. SIMS. Do they allege that it is their purpose to raise them? Did they file an increased schedule on these coast points?

Mr. GARDINER. There has been no increased schedule filed yet.

Mr. SIMS. We were all members of the Committee on Interstate Commerce when that legislation was passed last year, and I think I know something about the reason for adopting that amendment. There was a demand for increased rates, and it is provided that if schedules are not acted on within a certain time, they become effective without investigation. There was a conference provision put into the act by which no increases should go into effect until authorized by the commission, because if they had filed them as they could

have done, in such volume that the commission could not possibly have investigated them, they would have gone into effect automatically. How does that prevent the result of the final investigation of the commission as to whether or not a discriminatory rate existed in 1910, and that there was no special reason why it should continue in effect?

Mr. GARDINER. I do not know, but I know it was contended by the railroad companies that that was the effect and that the Interstate Commerce Commission suspended its ruling on June 30, which was to have gone into effect on the 1st day of October. Personally, I think there was no necessity for it at all.

The VICE CHAIRMAN. After six months from the enactment of that amendment in 1910 it was unlawful for the railroads to collect for a short haul more than for a long haul unless they secured an exception in each particular case from the Interstate Commerce Commission. The railroads maintained—it is their theory, and to some extent it is correct—in order to change one rate you affect all the rates, and that you unsettle the whole situation to change a rate at one place. That is on the same theory as a see-saw—you put down one end of the plank and the other end rises—and I believe the railroads have consistently followed the see-saw idea.

Mr. GARDINER. I quite agree with you that that is the position which has been taken by the railroads, Senator.

Mr. SIMS. The point I do not understand is why the commission says or considers that it is mandatory upon them to continue the condition of a special case that originated under the law of 1910.

Mr. GARDINER. I do not know and I can not answer that, and to tell the truth, I do not think there was the slightest reason why the Interstate Commerce Commission should have held up the effects of its decision of June 30. I think it could have put that into effect on October 1, just as it originally determined to put it into operation. I say that there was no legal reason under the sun why it should not have been put into operation, Senator, but my contention is that the Interstate Commerce Commission did suspend that when we thought we were going to get some relief.

Mr. SIMS. We are not all Senators, but would like to be, and I suppose you want to please us.

Mr. ESCH. I invoke the rule, Mr. Chairman, with reference to cross-examination.

Mr. GARDINER. I, unfortunately, do not enjoy the acquaintance of all members of this body.

The VICE CHAIRMAN. I do not know what rule Mr. Esch wants to invoke, whether he wants to continue to be called Senator or prevent the witness from getting information from Judge Sims.

Senator CUMMINS. I think he wants to have the witness continue without interruption.

Mr. GARDINER. I am very glad to have anything developed which throws any light upon any subject at all.

The CHAIRMAN. The rule of the committee is that the questioning of witnesses will proceed after the witness has concluded. You will proceed now.

Mr. GARDINER. It is immaterial to me. Any questions that are asked I shall be only too glad to answer them if I can, and if they



happen to require a more intricate knowledge of the entire situation, I will pass them along to Judge Bartine, who has been through this from the beginning to the end and can give you more of the history. The main thing I want to do is to bring to you the sentiment of this intermountain country, and the sentiment is that for all this time we have been discriminated against, the action of the Interstate Commerce Commission in delaying and postponing, giving us something and taking it away again, is such that our confidence in getting results through the Interstate Commerce Commission is so far shaken that we stand for a long-and-short-haul clause, iron-clad, and absolutely so, so that the railroad companies shall not be able under any circumstances to charge more for the short haul than for the long. That is the burden that the people of the State of Nevada have been under for years and years and years, and that is their fight.

Let me ask you gentlemen this: If a greater charge for a short haul than for a long haul is defensible, why is it not something that will work just as well in the East as it will work in the West? Why is it that on shipments of grain, and fruit, and canned goods, and other products of the West to the Atlantic coast there is not a back-haul charge, or why is it that there is not an increased cost to the interior towns? Why is it that Cincinnati and Cleveland do not pay more than New York on shipments which are made from our coast back there? The whole truth of it is that this was conceived and worked out long after the eastern situations were established, and the eastern rates were established, and whoever designed this iniquitous form of rate making I do not know. I do know that it is in existence and that it has been in existence out here for a protracted length of time, probably ever since the railroads started operation out in this country. Another thing, they may contend that they need to raise their rates to the coast in order to get greater remuneration, but here is something for you gentlemen to bear in mind: My information is that on every shipment from the East to San Francisco there is a certain proportion of the charge divided up among the different carriers. On every shipment from the East into Reno, none of the eastern roads participate in the greater charge to Reno. They only get their proportion of what the rates happen to be if the goods went through San Francisco, and the western roads get the balance. It shows that these terminal rates are remunerative and satisfactory to the eastern roads. Let the western roads show why it is necessary to charge us that much more. We have been under that burden, and we have been taxed by this rate for years and years, and we have done our very best to get relief from the Interstate Commerce Commission, and we have gotten no relief at all, and that is the reason we appeal to you.

Let us illustrate a case: I believe Senator Townsend lives in Jackson, Mich. Now, suppose that Jackson, Mich., was charged on all goods which came from New York to Jackson the rate to Chicago and a small rate back. Suppose Chicago was paying 75 cents, and suppose Jackson, Mich., was charged a dollar. Suppose, also, that Detroit, that great automobile center, on all its steel which it gets from Pittsburgh, was charged the rate to Chicago and a rate back again. Suppose that was the condition which would confront Sen-

ator Townsend. Suppose not only that would apply to Detroit, but apply to Jackson, and suppose it applied to every town and community all through the State of Michigan. Suppose they were taxed in that fashion. I am picking out a typical eastern city, distinguishing it from the western communities. This is what we have in the West. Suppose Senator Townsend had that same condition in the State of Michigan. Would he not go to the Senate with the idea that that was the one fight above everything else which he had to contend with? Would he not go there feeling that his sole duty, beyond his allegiance to the country to end this war, was to have an ironclad long-and-short-haul clause which would forever shut off a condition like that? If he did not take off his coat and do everything which was to be done in that particular, would he not go back to his community feeling like he was a traitor to his community, a Benedict Arnold, or a Judas Iscariot? That is the situation we have here, and when our two Senators and their lone Congressman go to Congress and favor an ironclad long-and-short-haul clause before everything else except their allegiance to this country in the war, and when they fight for it and appear before the Senate and House committees in their hearings and ask for this, and when these other Senators and Representatives of this western country, and when all these western Congressmen and Senators make that kind of a fight, do not look at them as western fanatics or western crazy men, but look at them as men trying to right a wrong and an injustice and change an arbitrary discriminating situation which has been existing against this intermountain country from the beginning of things, and remember that we have come to the last fight and that we are going to fight it to a conclusion. That is the position we take here.

There is one thing I want to say, and I say it with just a little hesitation, but I know you gentlemen will take it in good part; I understand there is going to be a meeting of this committee in Portland. There has been one in San Francisco.

The CHAIRMAN. There will be none in Portland. San Francisco is the only place. It is expected that those who wish to be heard in the intermountain and Pacific region will come here. That has been the determination of the committee.

Mr. GARDINER. I was just going to make this suggestion: The people of the intermountain country have been asked to come down here in the stronghold of the enemy. I am very glad to have the opportunity of coming. I know you gentlemen are all open-minded and that you are going to weigh this thing and weigh it thoroughly, but there is a sort of saturated atmosphere down here, and that saturated atmosphere is not the cool, clear, bracing, invigorating mountain air that you get in this intermountain country. It is more or less polluted, and the pollution consists in this discriminatory idea which I have been describing to you gentlemen, or endeavoring to describe to you, and different people that you will talk with are of the leave-well-enough-alone type, and consequently beyond the few speeches that you may hear from different people at a distance, who are opposing you in this subject, the whole tendency and the whole psychological effect is going to be antagonistic to this intermountain region. Do you not think if you gentlemen, after sitting here, came up for a couple of days to Reno and then went up for two or three days to Spokane, you would get the other atmosphere on this situation?

The atmosphere up there is very invigorating and a very inspiring one on this question, and you will find that the whole people in all that section are up in arms on this one particular subject, and that that is their one fight, that they want this ironclad long-and-short-haul bill, and they want all discretion in that connection removed from the Interstate Commerce Commission. I wish to thank you gentlemen very much for listening to me so patiently, and I extend to you, on behalf of Reno and the whole intermountain country, a most cordial invitation to hold at least a short session in one of those communities. I think if you will talk it over among yourselves you will find that it is a rather fair courtesy to extend us, and that the reward to all of you gentlemen of a better insight into the situation will be a very material compensation for your coming there, and you can see for yourselves the extent to which this intermountain country has been held back by the discrimination which has been exercised for so many, many years. I thank you, gentlemen.

The CHAIRMAN. Are there any questions you want to ask Mr. Gardiner, Senator Cummins?

Senator CUMMINS. I think there are a few questions I would like to ask. I would like you to divide this subject into two parts so that we can look at the matter from two standpoints, which, I think, are entirely distinct. It is very evident that a coast community is benefited by a discriminating rate, and I can understand the selfish motives of San Francisco or any other coast city that prompts it to insist on those rates. I want you to look at it a minute from the standpoint of the carriers. These rates have been made by the carriers, have they not?

Mr. GARDINER. They have.

Senator CUMMINS. You expressed a great sympathy with the railroads, but I assume that you meant by that that you are in sympathy with them when they are right, and you are opposed to them when they are wrong—that is right, is it not?

Mr. GARDINER. Correct.

Senator CUMMINS. The tenor of your argument is that they have been wrong about this whole matter and you are opposed to them in that respect, are you not?

Mr. GARDINER. I am.

Senator CUMMINS. I would like to know from your point of view why the railroads desire to build up the western portion of California and of Oregon and of Washington at the expense of the intermountain States?

Mr. GARDINER. I do not know.

Senator CUMMINS. We have heard, and most of us believe, that the chief object of a common carrier is to make money—it is not very altruistic, generally speaking. I would like to know from some one who has studied the question—and I know you have—why it is that the railroads pursue this policy which has been a voluntary one upon their part?

Mr. GARDINER. Senator. I would like to be able to answer that. I will tell you what I think. I believe—you know this rate-making business, and the condition in which it is in the intermountain country, goes away, way back. It goes back to the beginning of affairs, when the early population was along the coast, and when the interior was more or less of a waste, and I suppose under those particular



circumstances they started in with making a through rate, and I suppose all the goods did first go to San Francisco, which was the terminal, and I suppose, then, after that the railroads began building in different directions, and that goods actually did go to San Francisco and then were hauled back to these other communities, and I suppose that back-haul proposition went into effect. It is true, to a certain limited extent, that there was in the early days some water competition and that was taken up as an excuse for the establishment of terminal rates. Then, as these more remote sections from the terminals built up, that back haul became more and more pronounced and it was seen to be more and more of a revenue producer, and I believe that gradually grew up. Now, jobbing interests have grown up here, and it is a condition which, if remedied, is going to hurt, to a certain extent, the jobbing interests here on the coast. Naturally they are the heavier jobbers of goods, and they are closer to the railroad companies, and they enjoy their friendship better, and all of that; and, to tell the truth, I believe this is more of a jobbers' fight than it is a railroad fight.

I do not believe the railroad cares how it gets money. I believe it would just as lief charge as much here as it charges to all of us in the intermountain country, and I believe the railroads feel where they can—if they would give more favorable rates to the intermountain country, the railroads would be favored. I believe it is a jobbers' fight. There are several railroads which come in here, and if one, for a minute, conceded—if one of the railroads should immediately start to concede any rights to the intermountain country, the jobbing interests would ship over the other roads, and the result is that each railroad is afraid to make the change. Honestly and sincerely, I believe that is the case. I believe the railroads would just as lief make that change. They will not admit it, because if they did admit it, the cat would be out of the bag on the part of the railroad represented by the man who made the admission, and, therefore, the traffic would go to the other railroads. I believe this is more a jobbers' fight than a railroad fight.

Senator CUMMINS. Whatever else may be charged against the railroads, I think we all have conceded that they are managed intelligently; that is, they know what they are doing and they know why they are doing it.

Mr. GARDINER. I do not doubt that.

Senator CUMMINS. And if they thought they could make more money by giving you the rates which you believe you ought to have, do you not think they would do it? Are they so completely under the control of the jobbers of the United States along the coast that they are not at liberty to do what they might think is the best thing for their own interests?

Mr. GARDINER. There are a lot of ramifications to a railroad company. A railroad company does not consist of its tracks, its cars, and its business managers; it consists of its directors, its stockholders, its bankers, its shippers—the ramifications are so great, they are so big and an interwoven fabric, that I am not prepared to say that the railroads would consider it a good business thing to break away if they wanted to.

Senator CUMMINS. That is a paraphrase for saying the railroads pursue this policy because of some ulterior benefit that those who are

connected with the railroads may secure out of the business carried on or done on the Pacific coast, is it not?

Mr. GARDINER. Yes, sir.

Senator CUMMINS. Are you of the opinion that if these incidental things—if they may be called incidental—were entirely eliminated, that the railroads could by a proper adjustment of their tariffs make as much money as they now make under their existing rates?

Mr. GARDINER. Certainly.

Senator CUMMINS. The men who manage the railroads are perfectly aware of the resources of these intermountain States and of their capacity for development and growth, of course?

Mr. GARDINER. Certainly.

Senator CUMMINS. There is nobody better acquainted with the situation of these various States and what they are capable of doing than the railroads themselves. Now, the conclusion of your argument is that the railroads have deliberately thwarted or prevented the growth and development of these States in order to build up the terminal points?

Mr. GARDINER. I am not prepared to give a reason for the railroads, but I do say that is the effect of their policy.

Senator CUMMINS. I am now assuming a time and a condition of no substantial competition by water, for I have long been persuaded that that was a mere superficial excuse or reason given, and I have always thought there must be some other reason than competition by water for the extraordinary situation which has existed for a very long time. I am trying to find out the reason.

Mr. GARDINER. I wish I could enlighten you, but I can not. I can not tell what the reason is unless it is along the lines which I have given you. Of course, there is one other thing that may be in mind now, which is causing this fight, and that is the potential or possible water competition of the future, that there might come a time when they will need, or when they will want to make greatly lower terminal rates in order to compete with the steamboat lines, and do not want to abandon the higher charges for the intermediate points, but keep them held up for a time when they really will need something of that kind. There may be something in that, but that is merely speculative.

Senator CUMMINS. Do you believe that water competition is likely to deprive the railroads of sufficient traffic so that their entire facilities will not be demanded in carrying the traffic that they will get anyhow?

Mr. GARDINER. No; I do not for a minute. There will be some things that will go via water, but only comparatively few, and the demands on the railroads, I think, beyond any doubt, will be always what they can carry. The matter of time enters into these shipments always.

Senator CUMMINS. Barring occasional and very unusual conditions of depression, the growth of the country taxes to its limits the capacity of the carriers to do the business offered to them?

Mr. GARDINER. It does.

Senator CUMMINS. And have you ever known a time when water competition took away from the railways—the transcontinental railways—a sufficient amount of traffic to leave idle any considerable part of the railway equipment?

Mr. GARDINER. Not only have I never known of such a time, but I do not believe there was ever such a time.

Senator CUMMINS. And from that point of view, there is no likelihood of there being such a time?

Mr. GARDINER. That is correct.

Senator CUMMINS. So that the desire of the railway companies—and it is a natural one—to employ their facilities to their reasonable capacity does not account for the difference between the rates which have been established for the terminal points as compared with the rates established for the intermediate or intermountain points, at all, does it?

Mr. GARDINER. No; I can not see how it does.

Senator CUMMINS. You have not thought that the railroads are unconscious of what might be accomplished by reasonable rates to the intermountain country, have you?

Mr. GARDINER. No, sir.

Senator CUMMINS. I wish you would put on record your views of how these intermountain communities may grow if they were given proper encouragement; their population is now not great as compared with some parts of the country, but I would like to have the record show your views of the future with regard to these countries.

Mr. GARDINER. Well, I believe, Senator, in the first place, that any community which is more or less dependent upon some other community for its supplies, or as a base of supplies, loses its self-respect; that it is a dependent rather than an independent community. Now, if our cities are not able to get their merchandise from the East and distribute it to the smaller towns around, they are dependent organizations. Our community is in that situation at the present time, and most of the others are. In addition to that, the commercial bodies of these various communities are concentrating their efforts upon this particular fight, when, instead of that, if the fight were won, they would be centering all their efforts upon matters of local and State development, upon proper methods of advertising in the State, and upon the bringing of settlers into the State, and all those things, and they would change and they would devote their attention to them.

Then I also believe that when you build up a jobbing community you build up a far better banking community; that the banking resources are increased and that the money necessary to be loaned to people in business for buying homes or in working their farms and gathering up cattle, and matters of that nature, all can be taken care of to better advantage. I also believe that one will find that where a State has shown itself to be one which the railroads put upon a par with the larger States, that in itself helps the State very materially indeed. Now, of course, there is another feature of it, and that is that the amount of money which we pay for freight shipped from the East at the present time, while it does not add very materially to the cost of any one commodity, when these commodities are distributed around at retail and sold in the aggregate yearly it takes out of the State a very large amount of money which could be kept at home and used to great advantage in internal improvements. I hesitate to venture a guess as to how much money that would amount to, but it would mean a very great deal. Nevada is a producing State in some agricultural products, in mining, and in live stock,



and some others that I might mention, but those are the most pronounced, and Nevada is a State which produces a great deal of money, but sends out a great deal of money. The stockholders of the mines are nonresidents of the State to a great extent, and people in other lines are nonresidents to an extent, and the drain upon the resources of the State for money produced in the State is great and any output of money from the State which we can shut off is going to help very greatly. Those are the thoughts which come to me on the spur of the moment, Senator; that is something that ought to be elaborated to a great extent, but it is a feature to which I have not given extensive thought.

Senator CUMMINS. Suppose the rates of Reno and like communities were reduced to the level of the terminal rates, what effect would that have, in your opinion, on the revenues of the carriers?

Mr. GARDINER. It would increase them very materially. There is enough freight that would be brought into Reno so that that slight saving would leave a great deal of money in Reno which now goes out.

Senator CUMMINS. How would it affect the revenues of the carriers?

Mr. GARDINER. Oh, I can not tell you how much freight comes into Reno. When Mr. Shaughnessy comes here he can give you all the figures. Naturally, if Reno were given the coast terminal rates it would materially decrease the gross revenues of the railroads, in my opinion, and as conditions are now it would only be fair to let the coast rates be raised.

Senator CUMMINS. I do not think you catch the idea I had in my mind. If the intermountain rates were reduced to the level of the terminal rates and there was no change in the volume of business—no growth or development in the communities of the Intermountain States—necessarily the revenues of the carriers would be decreased, but what effect upon the business of these Intermountain States would the reduction of the rates have?

Mr. GARDINER. Why, Reno would become a distributing point for probably northeastern California, western Nevada, most of the western part of Nevada; it would import a great deal more in the way of goods than it does now and distribute them, and it would have the advantage of all of the facilities.

Senator CUMMINS. Do you think the traffic from Reno to the territory tributary to it would be greatly increased?

Mr. GARDINER. Undoubtedly. I will not say Reno itself will become a distributing point for much more of the territory than I have mentioned. Probably Winnemucca, Elko, and probably Tonopah, in southern Nevada, will become distributing points also.

Senator CUMMINS. Suppose the rates enforced at the terminal points were increased to the present rates of the intermountain territory, what effect would that have upon the revenue of the railroads?

Mr. GARDINER. Why, it would largely increase the revenues of the railroad companies, because it would attach to all of the goods now shipped to the terminal points, and it would also increase the revenue of railroad companies on goods shipped to Nevada, because Nevada under the adjustment of the rates would have the facilities then for doing the jobbing of its own community.

Senator CUMMINS. What effect would a change of that kind have upon the business of the terminal points?

Mr. GARDINER. It would make it necessary for the terminal points to find other jobbing business within reasonable limits, and those reasonable limits would probably be the territory west of the Sierras.

Senator CUMMINS. What proportion of the jobbing business of Nevada is done directly from the coast points as compared with that which is done from the interior points?

Mr. GARDINER. Before I answer that question I want to add to my last answer that it would not be necessary either for the coast jobbers to confine their business to the part of California west of the summit of the Sierras. Those people could, as rapidly as they wanted to, establish branches in any part of Nevada, and there distribute their goods in competition and under the same conditions as any local dealers would. That is probably what they would have to do.

Senator CUMMINS. You would treat the branch as a local enterprise?

Mr. GARDINER. The change of the rates need not curtail the business of these people. They could establish a branch to meet the curtailed business, and that would benefit our community to the extent of having those people residents of our community.

As to the proportion of jobbing done by local concerns there in Reno, and concerns from terminal cities, I could only guess at that, Senator. I have never had those figures presented to me, and I would hardly like to put a guess in the record.

Senator CUMMINS. Is a large part, or any considerable part, of the distribution by the jobbers directly from the coast points?

Mr. GARDINER. Yes; a very large part. Until recently—until we got a little better condition by reason of Commissioner Lane's decision, which did go into effect—why, practically every bit of it was done from the terminal cities.

Senator CUMMINS. Did that consist of shipments or distribution of goods which originated from the East and had been carried to the coast from eastern points over the railways?

Mr. GARDINER. Not entirely, but such goods were a part of it, and nearly all of those eastern goods were handled in that fashion.

Senator CUMMINS. Now, you have said several times that you could think of no defense for this policy except the well-known rule of imposing all the traffic would bear. It has seemed to me that that rule is not the one invoked. It seems to me that from your standpoint, the roads imposed a great deal more than the traffic would bear and thereby destroyed the traffic. Is not that so?

Mr. GARDINER. Yes; I agree with you, Senator. I accept the amendment.

Senator CUMMINS. The rule of all the traffic would bear, I suppose, means that a charge will be made that will move the business, and when you charge more than that you destroy the traffic. I had in mind to ask you about the cost of service. Have you ever investigated the cost of bringing goods from the east to Reno, as compared with the cost of bringing the same goods to San Francisco?

Mr. GARDINER. I have not done that, but Mr. Shaughnessy, one of our railroad commissioners, has all that data. He prepared it for the Interstate Commerce Commission and can give it to you.

Senator CUMMINS. Aside from the weight of the carload, which I think you suggested might, or was in some instance, heavier on the terminal shipments than on the intermediate shipments, is there anything of which you can think that makes the service more expensive to Reno than San Francisco over the Southern Pacific road?

Mr. GARDINER. Not a thing. Every carload which goes to San Francisco over the so-called Central Pacific—formerly called the Central Pacific—must go through Reno. After it gets to Reno it must be hauled 244 miles. That carload, when it gets to Sparks, a terminal point 300 miles from Reno, is picked up by a heavy compound Mallet engine, used for that purpose, and hauled up to an elevation of 2,500 feet, and then it goes down a fall of 7,000 to tide-water, through that run of 244 miles. Whatever might offset that haul of over 244 miles, I do not know. Then, when you consider on the eastern freight the haul of 7,000 feet from San Francisco and then on beyond Reno, the rate charged San Francisco is only 10 or 15 cents more than the rate charged from Reno to that point, it makes it still worse and it gets us going and coming.

Senator CUMMINS. The reason I have always heard given for the discrepancy or discrimination, of which we have been speaking, is this, that the rate to the intermediate point considered in and of itself is a reasonable rate, and if the rate to the terminal point were raised to meet it that the railroads would not get the business and that in the end the rate to the intermediate point would be even higher than it is now. That is the reason I have always heard given for this discrimination.

Mr. GARDINER. That might hold good perhaps in some communities where railroad facilities or the geographical conditions might be different, but how that could be true out here, I can not figure out, because these people must get certain goods from the East, and they will get them, if they have to pay a few cents higher or a few cents lower. The goods are sure to go. Now, if any of these terminal rates are lower, why the goods would go through just the same. Now, when it comes to leveling up the rates, so as to make the rates correspond, I am satisfied that the greater quantity of freight which goes to those terminals, if the rate were increased only—let us just estimate it at two or three cents a ton—the Reno rates were leveled to that amount, the increased percentage to the coast would be such that that two or three cents extra charge would make up on the increased amount of freight, the 25 or more cents eliminated on the haul to Reno, so it would probably be necessary to raise those coast rates very little.

Senator CUMMINS. You have indicated that Congress ought to amend the fourth section of the interstate commerce act by making the rule rigid, namely, that no greater charge should be made for the shorter haul than the longer one, both being over the same line and in the same direction. Why are you satisfied with that limitation? Why do you not reduce it to its philosophical form? Why should Reno pay as much as San Francisco?

Mr. GARDINER. Well, I think the reason I have not asked that is because I am a charitable person and not a railroad man. I think we ought to pay less, but if we are allowed the same rate, we can do business and are satisfied.



Senator CUMMINS. But you are thinking only, all the time, possibly, of the mere distributor. But somebody must pay this price, and that is the people of your community, those who consume what you distribute, are the people who ought to be considered, because every freight charge is passed along, but the charge they pay they must absorb. Therefore is it not fair to the common people of Nevada that the things which are brought to them by a railroad shall pay only a compensatory rate without regard to the rate to San Francisco?

Mr. GARDINER. I understand that that is the rule which is in operation in the East, but we have been so long trying to get only an equal rate, without having any success in getting it, that we feel we are doing better to ask only an equal break; personally no one can blame us for asking for an equal break. We are not asking for the best of things.

Senator CUMMINS. You mean you have suffered injustice so long you are willing to accept a partial reparation and not a complete reparation?

Mr. GARDINER. That is right.

Senator CUMMINS. Do you think the rule of the fourth section should be made rigid in all circumstances; that there ought to be no exceptions?

Mr. GARDINER. I do.

Senator CUMMINS. Have you considered the instance that has been mentioned here more than once by some of the witnesses, of competition between two lines of railway, one of which may be circuitous and therefore longer than the other?

Mr. GARDINER. No; I have not considered that, Senator, but I have considered this, that if the railroad companies had come to the Interstate Commerce Commission and had asked to have taken up those cases, which were special cases, a case like that which you mention, then we would have said, "All right, let it stay." If the Interstate Commerce Commission had said, "Gentlemen, if you have got a case like that, we will consider it a special case," then it would be all right, but when the railroad companies come to the Interstate Commerce Commission and ask the Interstate Commerce Commission to defy the amended fourth section and consider as a special case everything which the railroad company wants so considered, every particular case where they have ever charged a back haul, then the railroad companies have brought it on themselves, and they can take the consequences if an ironclad amendment puts the shoe on the other foot for the once. I do not mind that shoe pinching.

Senator CUMMINS. Your argument seems to me to lead to the conclusion that in your opinion the railroads have altogether too much influence with the Interstate Commerce Commission.

Mr. GARDINER. Well, Senator, I would not like to go on record as saying that.

Senator CUMMINS. What do you mean by saying what you did say?

Mr. GARDINER. I mean for seven years the relief which Congress thought they had granted us has been denied us, and that the Interstate Commerce Commission has had the power to give it to us at any time during that period. I am not saying what their reasons are for not doing it.

Senator CUMMINS. The Interstate Commerce Commission has been investigating this intermountain situation, I think, for more than 10 years. I do not remember just how long it has been. It knows about all there is to know about it, it seems to me; and when you suggest that time after time the commission has failed to give the relief which the law requires, that is simply another way of saying that it is trying to favor the railroads, from my standpoint.

Mr. GARDINER. Well, I will say this, that the effect of this ruling has been to favor the railroads.

Senator CUMMINS. Have the railroads ever claimed that rates which they have been charging upon traffic to the terminal points are not compensatory?

Mr. GARDINER. I do not think they ever have; in fact, the Interstate Commerce Commission has gone so far as to rule that the railroad companies have no right to put into effect at terminal points rates which are not compensatory.

Senator CUMMINS. In your connection with the matter, have you ever entered into the degree of compensation—that is, to determine whether these terminal rates are fully compensatory or only afford some profit above the cost?

Mr. GARDINER. No; that work has been gone into by Mr. Shaughnessy. He can give you all that data when he appears.

Senator CUMMINS. I am glad that you feel you can not blame the communities out here for getting all they can; that seems to be human nature. And I do not want to be understood from anything that I have said that I have any criticism upon any community for trying to get the best rates possible for its business; and I hope before we have finished that the reasons for this situation may be fully developed. I have never been able to understand it, I will say.

Mr. GARDINER. Well, I would like to hear some logical reason advanced myself.

The CHAIRMAN. Mr. Gardiner, the most populous part of Nevada is in the northern part, is it not?

Mr. GARDINER. Yes, sir.

The CHAIRMAN. It is served by but two transcontinental railroads, the Southern Pacific and the Western Pacific, is it not?

Mr. GARDINER. Yes, sir.

The CHAIRMAN. The Western Pacific has not yet secured much of the business, I believe, as far as Nevada is concerned?

Mr. GARDINER. I doubt very much whether it has.

The CHAIRMAN. You realize, therefore, that, so far as Nevada is concerned, the Southern Pacific controls most of the transportation business—the very much larger proportion?

Mr. GARDINER. Yes, sir.

The CHAIRMAN. Do you realize also that San Francisco, as contrasted with the Atlantic ports, with reference to transcontinental traffic, the Southern Pacific is in practical competition with numerous transportation routes: the Northern Pacific; Great Northern; the Union Pacific; the Western Pacific; the Atchison, Topeka & Santa Fe; and also in competition with the Panama Canal?

The VICE CHAIRMAN. And the Canadian Pacific.

The CHAIRMAN. In view of that fact, would you not regard 100,000 increased population in Nevada as being of more value to the South-

ern Pacific Railroad than an increase of 100,000 people in the city of San Francisco?

MR. GARDINER. Yes, Senator; I most emphatically would. I would like to answer one part of your question as to the number of railroads that the Southern Pacific is in competition with. I know that there are all those different railroads you mention running into the terminals, but I do not know enough about the railroad situation to know how much competition there is, putting emphasis on the word "competition."

THE CHAIRMAN. Unless there is some understanding between them, they are naturally competitors, because the other rail lines have steamer lines running down the coast to serve their purpose in competing with the Southern Pacific at San Francisco. From the standpoint of railroad policy, you would regard that increase of population in Nevada, where the Southern Pacific has almost a monopoly on the situation, as more valuable than an increase in the population of San Francisco?

MR. GARDINER. I think I would, because there is also the situation that Nevada imports probably a great deal more per capita than California imports, and there would be more freight hauled per capita with the increased population.

THE CHAIRMAN. Now, then, so if there should be a readjustment on just lines, such as you indicate, equalizing the through rate, so far as Nevada points and San Francisco are concerned, the result need not necessarily be injurious to the Southern Pacific Railway?

MR. GARDINER. No; I do not think it would be injurious. There is no reason why it should be injurious, especially if there is an increase, and a very slight increase in the coast terminal rates.

THE CHAIRMAN. Now, another thing, the Panama Canal is supposed to be competitive with all these transcontinental lines. There is either actual competition or potential competition, and you realize, do you not, that potential competition may diminish rates as well as actual competition?

MR. GARDINER. Yes; I think potential competition may, especially if it is likely to be reasonably imminent, but if it is likely to be very considerably deferred, I do not think it would operate that way.

THE CHAIRMAN. You do not think it would be appreciable in that case?

MR. GARDINER. No, sir.

THE CHAIRMAN. I agree with you there. Now, with reference to the policy of these great transcontinental lines that serve this coast, and also serve the intermountain regions, assuming that from the Atlantic ports through the Panama Canal tonnage must be transported at a much less cost than over these railroads, do you not think that from an economic point of view, the standpoint of the interests of the entire Nation, that that traffic ought to be carried through the Panama Canal?

MR. GARDINER. Yes; I do.

THE CHAIRMAN. Then, from that standpoint it is to the interest of the Nation to see to it that that transportation is not killed by unfair competition?

MR. GARDINER. I think so.

THE CHAIRMAN. But that it is promoted as far as the policies of the National Government can promote it—is that your view?



MR. GARDINER. Yes.

THE CHAIRMAN. Now, assume that was done, do you think there would necessarily be an adverse economic effect upon the transcontinental lines that serve these coast regions?

MR. GARDINER. Naturally, some of the transcontinental business would be diverted. There is no doubt of that. On the other hand, with the growth of the country and the demands made on the railroads and the different commodities which do not lend themselves readily to water carriage, I do not think that the effect on the transcontinental railroads is going to be great at all.

THE CHAIRMAN. You think that the loss of the transcontinental traffic which, if conducted in competition with the Canal, must necessarily be at low rates, would be made up by a compensatory traffic on the coast itself and to the intermountain region if this entire region prospered?

MR. GARDINER. Yes; and not only that, but the demands for transportation by the railroads from and between points not touched by water competition, are getting greater and greater all the time—beyond the power of the railroads to handle them. Take the coal shortage at the present time. In most instances it is simply a lack of transportation facilities, and the railroads having more than they can do now, it seems to me that the comparatively small portion of the tonnage which will be taken care of by water will not have a very great effect upon the revenues of the railroad companies.

THE CHAIRMAN. So far as the jobbing interests of the Pacific coast are concerned, and their ability to serve not only the coast region but the intermountain region, would not that be promoted by cheap rates through the Panama Canal?

MR. GARDINER. Why, there are certain commodities which lend themselves to water traffic which might be brought from eastern ports around through the Panama Canal and laid down there at a less rate than is charged by rail, and there might be some few that would be so much less that a coast jobber could put them into Nevada in competition with houses there, but I should not say that would have much effect, because if there are any such commodities a Nevada man can get them shipped westward by water and then shipped up to Reno and there distributed.

There will be cases, of course, like I illustrated, where, if the rates from San Francisco to Reno and from Reno to the other points are greatly in excess of the through rate from San Francisco to that point, there will be some cases where certain goods brought out by water could be shipped from the coast terminals in competition with the goods brought out under a lower rate to Nevada from eastern points.

THE VICE CHAIRMAN. I suggest that the hearing be suspended for two hours, and that the committee immediately take up the matter regarding procedure—

MR. THOM. There was some little misunderstanding a moment ago about a decision of the Interstate Commerce Commission as to whether or not it occurred under the amended fourth section or the old fourth section. I assume there must be a difference in what Judge Bartine is referring to and what I am referring to. The decision by Commissioner Lane of the case of the Railroad Commission of Nevada against the Southern Pacific Co. and others, which

was decided June 22, 1911, is the one I was referring to. That was under the new and amended section. I have the case here for the examination of the committee.

The CHAIRMAN. Have you any questions, Mr. Adamson?

The VICE CHAIRMAN. The examination of the Chairman and Senator Cummins has been so thorough that I do not care to examine the witness.

Mr. SIMS. The question of the fourth section of the act is one of the utmost importance to these communities, and, therefore, I would like to have all the information I can get. I have some questions.

(Whereupon, the committee went into executive session, at the end of which a recess was taken until 2.30 o'clock p. m. of the same day.)

#### AFTER RECESS.

The hearings were resumed at 2.30 o'clock p. m. after the taking of a recess.

#### STATEMENT OF MR. WILLIAM M. GARDINER—Resumed.

The CHAIRMAN. Mr. Gardiner, a long time has elapsed since the adoption of the amendment to the fourth section of the interstate commerce act, regarding the long and short haul. I believe that was passed in 1910, and I understood you to say that a decision was rendered June 30, 1917, seven years later, by the Interstate Commerce Commission; that the operation of that decision has been since suspended because of a change in the interstate commerce law, which prevented any increase of rates without the authority of the commission. How does that provision, recently passed, intended to prevent increases of rates without the scrutiny of the commission, affect that decision of June 30, made by the Interstate Commerce Commission?

Mr. GARDINER. My understanding of that is that on the attention of the Interstate Commerce Commission being called to that amendment by a petition for a rehearing or a petition for a stay of execution of their order, or something of that nature, that the Interstate Commerce Commission suspended the order which it made on June 30, and as a result of which the order of June 30 is inoperative, and we do not know for how long it will be inoperative.

The CHAIRMAN. Did that order of June 30 contemplate any increase of rates?

Mr. GARDINER. It contemplated, as I read that opinion, the leveling of rates, and by leveling I mean a new tariff in which, perhaps, some of the coast rates would have to be raised in order to give the railroad company a greater revenue to compensate for the lower rates into Nevada.

The CHAIRMAN. So that your view of that order is that it possibly contemplated an increase in some rates?

Mr. GARDINER. I have no doubt of it.

The CHAIRMAN. Very well, then; assuming that to be the fact, was it not the duty, then, of the Interstate Commerce Commission to prevent any new schedules of rates presented by the carriers which proposed increases from taking effect until the commission could

inquire into the matter and could either authorize or disapprove those increases?

Mr. GARDINER. I presume that that was one of the horns of the dilemma which the Interstate Commerce Commission could have taken, and it was the horn of the dilemma most favorable to the railroad companies. On the other hand, the Interstate Commerce Commission could have said, "You have been discriminating for years and years and it was the intention of Congress in 1910 that you should charge no greater rates to Nevada than you were charging to the coast. Now you put into effect in Nevada the same rates that you have on the coast and then apply to us for permission to raise the other rates."

The CHAIRMAN. You think that should have been the action of the commission—

Mr. GARDINER. I think by all means.

The CHAIRMAN (continuing). Preventing any increase of rates, but leveling the rates, which would mean that the rates to the intermediate points, I imagine, would be lowered?

Mr. GARDINER. Yes, sir.

The CHAIRMAN. And then, later on, to take up the consideration of the question as to whether that lowering of rates at intermediate points did not justify a balancing by an increase of the terminal points?

Mr. GARDINER. And that later on would not have been very long. The railroad companies would have had their new schedules in short order if the Interstate Commerce Commission had made that kind of a ruling.

The CHAIRMAN. That would have compelled the railroads to adhere to their terminal rates, without increases, but would also have forced—

Mr. GARDINER. In other words, the Interstate Commerce Commission played right into the hands of the procrastinating policy of the railroads. They wanted to defer the operation of that fourth section as long as possible, and probably unintentionally the Interstate Commerce Commission played into their hands.

The CHAIRMAN. In view of the situation, do you not think it would be better not to make any reflections on the action of such distinguished bodies as the Interstate Commerce Commission in matters of that kind?

Mr. GARDINER. I did not mean it that way. I said "probably unintentionally the Interstate Commerce Commission played into the railroads' hands."

The CHAIRMAN. Do you not think it is quite possible the Interstate Commerce Commission took the view, as you seem to take and the intermountain people generally seem to take, that justice might require the raising of the terminal rates in case the intermediate rates were diminished?

The VICE CHAIRMAN. In view of what has been said here, I think it is only fair to the commission and to the country to remind the country of the fact that the commission has been overwhelmed with work for the last 10 years and only recently have we afforded it relief by increasing the number of members so that they could do their work more expeditiously, and we hope for more rapid work in the future.



Mr. GARDINER. May I have your question repeated?

The CHAIRMAN. Mr. Reporter, please read the question.

(The stenographer repeated the question, as follows:

"Do you not think it is quite possible that the Interstate Commerce Commission took the view, as you seem to take and the intermountain people generally seem to take, that justice might require the raising of the terminal rates in case the intermediate rates were diminished?")

Mr. GARDINER. I think it is very probable that that is true, Senator. On the other hand, it seems to me that due reflection should have convinced the Interstate Commerce Commission that it would have been only fair to have possibly worked an injustice to the railroad companies for a few months, as an offset to the continued injustice practiced on the intermountain territory for years and years.

The CHAIRMAN. Do you not think yourself it would be more logical for them, instead of pursuing a policy that would have resulted in two changes, to act in such a way as to have but one change, provided, of course, that that could be done without undue delay?

Mr. GARDINER. No; I can not say that I do, Senator. The Interstate Commerce Commission in that opinion of June 30 found that it was unfair to the intermountain country to charge them the higher rates which they had been charged, and having found that, it seems to me to follow as a necessary corollary that it was unfair under any circumstances to continue charging them unfair rates, even while this leveling process might have been going on in the preparation of new schedules.

The CHAIRMAN. With reference to the decision of June 30, did that satisfy the reasonable expectations of the intermountain region?

Mr. GARDINER. I think that if that had been put into effect at once and if the Interstate Commerce Commission had not changed its ruling, probably that would have brought relief to the intermountain country—that is, as I understand that decision.

The CHAIRMAN. Now, regarding the question of delay, of course, seven years seems a very long time in which to accomplish the solution of this question, and I should like to know what the different stages were. The delay seems unreasonable. Now, will you let us know when the first suit or first application was made to put into operation the amended fourth section of the interstate commerce—

Mr. GARDINER. If I may, Senator, I would like to ask you to reserve that question and ask it of Judge Bartine, who has been all through that litigation and has it all at his fingers' end. I have not. I could probably approximate that, but could not give you as full an answer as Judge Bartine can.

The CHAIRMAN. All I can say is that I wish to supplement what Judge Adamson has said in reference to the Interstate Commerce Commission, that it has been an overburdened commission for years, and Congress has only recently been able to agree upon some method of easing up its burdens by dividing it into three divisions, each one of which has as large jurisdiction as the commission itself. When that is carried into effect it will probably expedite the dispatch of business.

Mr. GARDINER. I agree with you entirely, Senator, that it has been an overburdened commission, and I believe a great deal of the work

will be taken off the commission by the enactment of this ironclad long-and-short-haul clause. Then it will not have to worry about these different matters.

The CHAIRMAN. I say I am not disposed to inquire so much as to the reasonableness of why they granted this suspension order, which seems to me to have been entirely reasonable under the circumstances—I am not inclined to attach nearly as much importance to that as to the long delay between 1910 and 1917 in reaching a final conclusion, and I should like to have information upon that, but I will ask Judge Bartine regarding it.

Mr. GARDINER. Yes; I thank you.

The CHAIRMAN. Regarding the Panama Canal, you spoke of it as not offering any real competition. That is probably true of late, since the ships that went through that canal have been absolutely absorbed by the needs of the National Government in this war. You spoke of potential competition, but indicated that that, of course, is not as effective as actual competition. Of course, that must be admitted. Do you not think it should be the policy of the Government to see to it that that Panama Canal is made an effectual instrumentality for the transportation of goods from one coast to another, whatever its effect may be upon the traffic rates of the transcontinental railroads?

Mr. GARDINER. I think so, and that was the meaning I intended to convey when I spoke on that subject. Undoubtedly the idea of the Government was to relieve the congestion of the railroads, and that ought to be made a paying proposition to the Government.

The CHAIRMAN. That is all.

The VICE CHAIRMAN. Do you not think it is probable when war conditions have ended and the ships have been released from their present occupation that they will resume their traffic through the Canal, and the difference between active and potential use will disappear?

Mr. GARDINER. I certainly do; but as far as that has any bearing upon the position I have taken in relation to the intermountain regions, I feel, as I have explained myself heretofore, that the freight which will be carried in that fashion will be comparatively small, and even if it does deprive the railroads of a certain portion of their revenues, still that should be no reason for charging interior points any more than the coast points are charged.

The VICE CHAIRMAN. Still, we have a right to speculate and hope for other means of relief. In the enactment of the Panama Canal act, we who live in the interior thought we were providing for relief for the interior; that we could ship through the canal and back several hundred miles into the interior, the Commerce Commission fixing the land portion of the charges, and we thought the railroads could keep pretty busy, or at least derive some business hauling from the interior to the coast in order to supplement the sea route.

Mr. GARDINER. A reading of this opinion of June 30 would indicate that that is not going to be the attitude of the Interstate Commerce Commission: that when the Panama Canal competition becomes apparent again it will figure that it has the right and probably will let the railroads raise the rates to these intermountain points.

The VICE CHAIRMAN. I have no further questions.

Mr. SIMS. Now, section 4 as it reads under the amendment of June 18, 1910, states:

That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the aggregate for the transportation of passengers, or of like kind of property, for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through route than the aggregate of the intermediate rates subject to the provisions of this act; but this shall not be construed as authorizing any common carrier within the terms of this act to charge or receive as great compensation for a shorter as for a longer distance.

That is the amendment without any qualification, that stating the substantive law, the object, and purpose of the act.

Mr. GARDINER. Yes, sir.

Mr. SIMS. Now, I want to ask this question, as what I have read is the law and should receive liberal construction in order to carry out the purpose of the law: In giving a liberal construction to the exceptions, instead of a strict construction, does not that have a tendency to prevent the accomplishment of the object and purpose that Congress had in view in passing the substantive law?

Mr. GARDINER. I think undoubtedly so. I think it is a rule of statutory construction that any statute remedial in its nature should be given a liberal construction and the restrictive clauses should be construed narrowly.

Mr. SIMS. Now, as to the provisos, it is provided:

That, upon application to the Interstate Commerce Commission, such common carrier may in special cases, after investigation, be authorized by the commission to charge less for longer than for shorter distances for the transportation of passengers or property; and the commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section.

Now, using the words "special cases" would indicate there must be something out of the ordinary; that it should not come within the general provisions of the amendment which I just read.

Mr. GARDINER. Yes.

Mr. SIMS. Inasmuch as they should be special cases, does it not seem to carry the idea with it that it should be expedited; that you should give a special case special consideration?

Mr. GARDINER. Certainly; it would seem to me so.

Mr. SIMS. Now, there is another proviso:

*Provided further.* That no rates or charges lawfully existing at the time of the passage of this amendatory act shall be required to be changed by reason of the provisions of this section prior to the expiration of six months after the passage of this act, nor in any case where application shall have been filed before the commission, in accordance with the provisions of this section, until a determination of such application by the commission.

Now, the railroads, or common carriers, by filing or making applications to have their rates that were lawful at the time this act passed continued—they can be continued by making an application "until the determination of such application by the commission"—in other words, the commission can not prevent the application having that effect?

Mr. GARDINER. No.

Mr. SIMS. The application has the effect of suspending the operation of the substantive law until the rate embraced in this application has been determined by the commission, and the fact that the



commission did not determine these applications until, I believe you said, June 30, 1917, is not that the reason and the only reason why the amended act has not applied to cases where it otherwise would have applied?

Mr. GARDINER. I think that is the only reason.

Mr. SIMS. I have not seen the order of June 30. Did the order of June 30, 1917, that you have referred to, cover all applications which had been made, by which the old rate had been retained in effect?

Mr. GARDINER. I will have to reread that to be sure of it; I do not think it did. I know it referred to certain special commodities, etc. I do not think that that ruling of June 30 is broad enough to cover everything.

Mr. SIMS. After the application of the carrier, all that was necessary to happen in order to allow it to apply indefinitely the rate that was in effect was the nonaction of the commission. Now, I did not know from your language whether that order covered all applications made by the railway companies.

Mr. GARDINER. I do not think it did.

Mr. SIMS. Were there any cases where the railroads did not make application to continue the rate in effect at that time?

Mr. GARDINER. No; I think the railroad companies made applications covering everything. In every instance where they were charging more for a short haul than a long haul they made applications to the commission, and the commission made a blanket order, in effect, suspending the statute until they had made a complete investigation.

Mr. SIMS. Would they have to make any order at all? The carriers presenting their application suspended the application of the fourth section, did they not?

Mr. GARDINER. That may be true, but I understand they made an order also.

Mr. SIMS. In addition to this?

Mr. GARDINER. Yes, sir.

Mr. SIMS. You do not know whether or not all those applications have been yet passed on by the commission?

Mr. GARDINER. I am not positive about that. I would have to read that opinion very carefully.

Mr. SIMS. But the commission did, in passing on those embraced in the order of June 30, say which of these several rates on which applications had been made might remain as they were, or with such modifications as the commission determined?

Mr. GARDINER. It did not make this order in exactly that way. There was no order made under the opinion of June 30 fixing rates, but it said that the rates should be leveled or equalized, and it was left to the railroad companies to do that and present their schedules to the commission.

Mr. SIMS. The railroads could equalize in these cases; they could level them by reducing the rates to the intermountain points or increasing the competitive water-terminal rates or by both?

Mr. GARDINER. Yes, sir.

Mr. SIMS. Do you know whether the railroad companies did make any application to be permitted to level these rates by making any increases of these terminal rates?

Mr. GARDINER. I asked for a copy of that last order. I asked Mr. Simmons, of our railroad commission, before I came down here to get me a copy of that order. I asked him that on last Wednesday. He was going over to Carson on Thursday, and I saw him Friday morning, and he told me he had been unable to get me a copy of the last order of the Interstate Commerce Commission, and consequently I can not answer that question accurately. My understanding of the situation is that, in effect, the order of June 30 is indefinitely suspended until the railroad companies shall prepare a new schedule and the Interstate Commerce Commission investigate it.

Mr. SIMS. Well, until the railroads themselves file a schedule increasing their rates, the commission has no jurisdiction to act, has it?

Mr. GARDINER. It practically means that the Interstate Commerce Commission has, as far as I know, suspended the order of June 30, pending the filing of rates. I, personally, agree with you that the law should be considered in effect, and if they have no right to raise their rates by this leveling process they should put the Nevada rates into effect immediately and raise the other rates afterwards.

Mr. SIMS. I am trying to find out how the law that the last extra session of Congress passed could possibly affect this order, whatever it was. If they had from June 30 until the law was amended—that is, the railroads had that time—to file the schedule of rates asking for increases in the present terminal rates, and did not file any such applications, then the only effect I can see of the recent act—and that act simply provided before a schedule of increased rates is filed, it must have the approval of the commission—having had from June 30 until this law was passed in last September, having more than two months to file applications, and not having filed any, then I can not see how the act of Congress requiring that any schedule of rates before it can be filed must be approved by the commission—how that would suspend the action of the commission in the first instance requiring that the rates should be leveled either by raising the terminal rates or by lowering the Nevada or intermountain rates. I do not understand that.

Mr. GARDINER. I do not think, Mr. Sims, that the last act of Congress—I have not seen it, as the printed statutes have not come to us—but as I understand that act, I do not see why that should have affected the order of the Interstate Commerce Commission or why the Interstate Commerce Commission should have modified or changed its order of June 30 at all. The railroad companies were able to comply with that order simply by putting into effect the terminal rates all the way through, and, as you say, before that act was passed they had about 60 days in which they could have complied with the order, but which they did not do. However, that order of June 30—you have perhaps missed this—that order was to go into effect October 1.

Mr. SIMS. That was the effective date?

Mr. GARDINER. Yes, sir; that was the effective date; and, while I will not say it is corporate nature, still it is human nature to put off the evil day to the last.

Mr. SIMS. But the railroads are not prohibited from proposing an increase in their terminal rates now. The only thing is before they can file them they must be approved.

Mr. GARDINER. Very true. They are not prohibited from doing it, but they do not want to do it any sooner, as I understand it, than the Interstate Commerce Commission will make them.

Mr. THOM. That application has been made and a hearing is going on in New York now.

Mr. SIMS. I did not know that.

The CHAIRMAN. You say a hearing is going on now?

Mr. THOM. Yes, sir; in New York.

Mr. SIMS. I was without that information, which, of course, if I had it I perhaps would not have been so much surprised at the absence of action.

Mr. GARDINER. I know they had filed something, but I did not know what it was.

Mr. THOM. That is the first of a series of hearings; the first in New York and then in Chicago and then at other points.

Mr. SIMS. In other words, they have made applications for increases in rates?

Mr. THOM. Yes, sir.

Mr. SIMS. This fourth section, taking it with all its exceptions and giving it a liberal construction, with a view to carrying it out as the law was intended to be carried out, giving a reasonable and liberal construction with the substantive law and a strict construction of the restrictive clauses, I ask if it can not be administered in the interest of the public. I mean, is it necessary to amend this law in order to remove the evils intended to be removed, if it is administered according to the plain intent and purpose of Congress, as we gather from the face of the statute itself?

Mr. GARDINER. I should say, Mr. Sims, to the very best of my ability, that if that law had been administered by the Interstate Commerce Commission in that spirit we would have had the relief which we wanted, but the fact remains that we have not had the relief. We thought we were on the verge of it any number of times, but still did not get it, and whether we are any nearer to getting the relief which the spirit of that law awards us than we were 10 years ago I do not know.

Mr. SIMS. I do not mean to be understood as admitting what you say—I mean as to the inaction or improper action, or whatever it may be, of the Interstate Commerce Commission—I am not passing on that. I always assume that any great body of public officials have acted as they ought to until I know to the contrary.

Mr. GARDINER. That is a proper inference.

Mr. SIMS. I understand your idea is you have not gotten the relief you desired through the channels which have been provided?

Mr. GARDINER. Exactly.

Mr. SIMS. And in the absence of relief you feel it necessary for the development of your country to have the channels narrowed?

Mr. GARDINER. Let me put it this way: The railroads of the country knew well enough when that amended fourth section was passed in 1910 what it meant, and they knew well enough that special cases did not mean every case in which they claimed the right



to charge more for a short haul than for a long haul, and knowing that they have fought us all the way down the line for the last seven years. There was a flexible law for their benefit, and if they had taken it in the spirit in which Congress passed it we could have had relief long ago and they could have had relief. But they were not willing to do it. They would not take the will of Congress as to their line of conduct at all, and my contention is that, having taken the attitude that they did regarding that law and having kept that law inoperative by their actions before the Interstate Commerce Commission and the delays they have drawn about it, they are no longer entitled to the sympathy of any discretion being imposed in the Interstate Commerce Commission, and that if Congress enacts a strict long-and-short-haul clause the railroad companies, not being satisfied with the spirit of the amended fourth section, have brought a rigid section upon themselves.

Mr. SIMS. Do you think the port towns or the coast towns having the benefit of the water competition—is it your opinion that the interests of these towns will object to having the intermountain rates reduced?

Mr. GARDINER. There is no doubt in the world that they will object, and the committee need only continue its sittings to find that answer. There will be representatives from commercial bodies of the coast towns asking this committee to leave well enough alone.

Mr. SIMS. That is a point I do not exactly appreciate.

Mr. GARDINER. The fight before the Interstate Commerce Commission has been participated in right straight along by the different commercial bodies.

Mr. SIMS. You do not mean to leave the inference that the port towns will contend that in order for them to live they have to have discriminatingly favorable rates?

Mr. GARDINER. I do not say that they will go so far as to say they have to have them to live, but in order to do as much business as they want to do they will insist on such discriminatory rates.

Mr. SIMS. They want to have better rates than anybody else that competes in the same field with them?

Mr. GARDINER. Exactly. I was just going to comment on the different appearances before the Interstate Commerce Commission in connection with this act here. Now, here is the Portland traffic transportation association represented: the San Francisco Chamber of Commerce represented——

Mr. SIMS. I can understand why they do not want their own rates advanced, but I do not understand why they do not want other people's rates reduced.

Mr. GARDINER. I will not take time to go through that, but bear that in mind. Mr. Sims, and see whether the representatives of these jobbers in these coast towns do not come before you and ask that the discriminatory rates against the intermountain towns be maintained.

Mr. SIMS. That is all.

Mr. ESCH. Do you believe in a town or community being permitted to enjoy natural advantages?

Mr. GARDINER. Yes, I do.

Mr. ESCH. The coast towns have natural advantages, do they not?

Mr. GARDINER. Well, the coast towns have natural advantages, and one would think that Reno had a natural advantage in being closer

on railroads to centers of manufacture than San Francisco is on the railroads.

Mr. ESCH. Of course, each town that has natural advantages wishes to get the largest percentage out of those natural advantages. That is true, is it not?

Mr. GARDINER. They certainly do.

Mr. ESCH. That complicates the situation. You said that the water-borne traffic presented rather immaterial competition with the rail lines. Is that right?

Mr. GARDINER. Up to the present time it has.

Mr. ESCH. Do you not think, in view of the tremendous program of the Government in the matter of the merchant shipping, which at the end of 18 months might reach a tonnage of between nine and eleven million tons, that when peace comes there will be a tremendous amount of shipping needing employment, owned by the Government of the United States by its people; that it will increase water-borne competition between the coasts?

Mr. GARDINER. I do.

Mr. ESCH. It will not only be potential but actual competition, will it not?

Mr. GARDINER. When that time comes it will be actual.

Mr. ESCH. Are you familiar with the provisions of the act creating the Shipping Board?

Mr. GARDINER. No; I am not.

Mr. ESCH. Under that act, Congress has given to a board certain control over ocean rates, analogous to the powers granted the Interstate Commerce Commission over rail rates, and those powers, of course, reach the intercoastal rates. Do you not think, with the power thus granted, with the board already created, that competition between water-borne traffic and transcontinental rail traffic may be actual and not potential?

Mr. GARDINER. I think in the course of time there will be actual water competition on some commodities; yes.

Mr. ESCH. Of course we are not legislating for to-day only.

Mr. GARDINER. No; that is true.

Mr. ESCH. We are gathering information to guide us for some time in the future?

Mr. GARDINER. Yes, sir.

Mr. ESCH. We have to look at this proposition not from the standpoint of war alone but also from the standpoint of peace. So, those propositions being true, some of us believe that the water-borne traffic will be actual and that the traffic on the transcontinental lines will have to meet it. You think they should not meet it by increasing the intermountain rates?

Mr. GARDINER. I do not think we should bear that taxation.

Mr. ESCH. You believe, then, they must suffer this loss of the transcontinental business?

Mr. GARDINER. Yes; I think the way the transcontinental business is, that some of it can very well be taken care of on water, and I think that the railroads, by devoting some attention not to fighting the intermountain territory but cooperating with the intermountain country, can get far and away more traffic up in that community.

the revenue on which will compensate for any loss they may sustain on the transcontinental traffic.

Another thing I think is that there being a commission regulation of the water traffic and a commission regulation of the land traffic, that neither commission will see one form of transportation unduly suffer at the expense of the other.

Mr. ESCH. There is no doubt there will be cooperation between those two governmental agencies. There is no doubt about that.

Mr. GARDINER. No, sir.

Mr. ESCH. In trying to decipher a possible reason for maintaining a higher rate for the intermountain country than for the coast towns, this occurred to me as a possibility—and I know nothing about it—do you ship out more traffic than you receive at Reno?

Mr. GARDINER. No.

Mr. ESCH. You receive more than you ship out?

Mr. GARDINER. Yes, sir.

Mr. ESCH. That would result in the carrier hauling empties; and that is, of course, most uneconomic?

Mr. GARDINER. Well, I do not know how the transportation problem is on the coast. I do not know what empties have to be brought back. That is something that confronts a railroad to a greater or a less extent everywhere, and they have to watch for that and to a certain extent make rates in accordance with it. There is no doubt in the world about that. But I have never heard it urged that that was expensive enough to justify anything like—

The VICE CHAIRMAN. When I used to be a wagoner, if I could get a load both ways I could handle it much cheaper than handling it one way, and I suppose it is the same way with the railroads.

Mr. ESCH. I was trying to impregnate the situation with this thought;—and I do not know whether there is any justification for it or not—suppose manufacturers produce and ship goods ordered to be delivered at Reno, and they are delivered at Reno, but Reno has no products to fill these cars to return them east, and hence they have to go east empty or be hauled 244 miles to the coast, over an elevation of 7,000 feet—

Mr. GARDINER. If the rates from the East into Reno and the rates from Reno out were different Reno would reshipe far more than it now reshipe. That would tend to overcome that objection, if that is an objection now.

Mr. ESCH. If your section were a large manufacturing section, of course there would be no doubt about your being able to ship back?

Mr. GARDINER. Yes, sir.

Mr. ESCH. But you are in a mining section and your mines are silver and gold, and they do not make much freight.

Mr. GARDINER. There is not much freight in that line.

Mr. ESCH. Your main shipments are hay and bulk stock?

Mr. GARDINER. Not very much more than that.

Mr. ESCH. And your stocks go to the coast, or do you ship them east?

Mr. GARDINER. Yes, sir.

Mr. ESCH. Do you think in the matter of economic handling of car equipment on the transcontinental lines there is any measure of justification in increasing the intermountain rates over the terminal rates?



Mr. GARDINER. I do not think there is any measure of justification—no. There is another thing to be taken into consideration. We have been emphasizing in this question the matter of trans-continental rates, the west-bound rates. Now, in addition to that, as I have explained, San Francisco gets a rate from San Francisco into Elco of 77 cents. The rate from Reno is only about 12 cents lower despite that 7,000-foot climb, and the 244-mile haul to Reno. Now, if there are a great many cars going east and if the railroad company thinks that that is any element of consideration, why should it not make a rate out of Reno lower in order to pick up more goods and fill up cars instead of making that rate out of San Francisco so much lower? Does not the same condition apply? San Francisco is a territory which naturally takes in a great deal more than it sends out. If the railroad company is taking back empties from San Francisco, why is it that in order to fill up those empties it will let San Francisco ship to Elco for 77 cents and we can ship to Elco for only 12 cents less? You take it down to the last analysis and you will find it is a question of discriminating in favor of the cost jobber right straight along, and another thing, if you will take rate making in the last analysis, you will find that the jobber has more to say about rate making than the railroad company has.

Mr. ESCH. As far as this discussion has gone it seems to be largely connected with the jobbing trade and very little talk about manufacturing.

Mr. GARDINER. Well, the manufacturing end of it out in the West. I regret very much to say, has not the importance of manufacturing in the East.

Mr. ESCH. Of course, in the East, that is the dominant feature.

Mr. GARDINER. Yes, sir.

Mr. ESCH. There is another question that occurs to me. In the decision of the Interstate Commerce Commission in the Spokane cases—I think the cases in 1912—where Commissioner Lane filed a decision and the commission prescribed a zone system of rates, a blanket rate from the Missouri River to the coast and an increased schedule to the Atlantic—how would that have affected your country if it were put into force and effect?

Mr. GARDINER. That was put in effect on class shipments, more than it was on commodity shipments.

Mr. ESCH. Yes; I understand.

Mr. GARDINER. It helped quite a bit. If we had had that same proposition on commodity rates as well as class rates, then if the shipments out from San Francisco had been readjusted on a reasonable basis, we would have come to some approximation of being reasonably relieved.

There is one thing that occurs to me in connection with this discussion and in connection with these empty cars, and so forth. The railroad companies all presented to the Interstate Commerce Commission all the evidence and all the arguments which they have at their disposal, and the Interstate Commerce Commission in the face of that has said, in effect, that the intermountain rates are too high; that they should be made to correspond with the terminal rates. We have, therefore, the decision of a duly constituted body that the rates should be lower. Our position is, For heaven's sake, when?

When—when it is going to happen? We have been at it so long, and it has not happened yet, and for that reason we do not know what will happen next, and we want to make this absolute by statute.

The VICE CHAIRMAN. There is one thing I should like to understand. Is the disproportion between what you ship in and ship out at Reno as great as at San Francisco?

Mr. GARDINER. I can only guess on that. That requires statistics which I can not give you, but I should imagine that it is.

The VICE CHAIRMAN. If it is, it destroys the argument about the number of empties going one way; that is, if the proportion is just as great.

Mr. GARDINER. Yes, sir; and yet they give San Francisco a lower rate eastward than they give us.

The VICE CHAIRMAN. Touching the importance of your section, in the matter of developing your region, I will ask you, in advertising the advantages of any place, if good railroad facilities and favorable freight rates are not about the best inducements you can offer to the investors and home seekers?

Mr. GARDINER. The question pretty nearly answers itself. I should say, yes, most emphatically.

The VICE CHAIRMAN. Good train service and good, favorable railroad rates might build up your country and make it as good as any other part of the country?

Mr. GARDINER. I think so.

The VICE CHAIRMAN. And redound to the benefit of the railroads that serve them?

Mr. GARDINER. Yes, sir; we begin to look upon the railroad companies as public benefactors. I do not want anyone to think I have it in for the railroads. I have not. The only quarrel I have is discrimination. That is the only one. I am on friendly terms with them.

The VICE CHAIRMAN. We would not dispense with them for any consideration in the world, and all we want them to do is to treat us fairly.

Mr. GARDINER. That is all; if they would just turn Christians and practice the Golden Rule, we would get along with them elegantly.

The VICE CHAIRMAN. But that would be unfashionable. However, it is not the corporations that are bad; it is the officers.

Senator CUMMINS. I do not quite understand your application of the suggestion made by Mr. Esch with regard to loading both out and in. Suppose it is true that Reno loads more in than out, and San Francisco does otherwise, the car could be used better if carried on to San Francisco for its return trip; and if the car is unloaded at Reno instead of being carried on to San Francisco loaded, it would be cheaper to carry it empty from Reno to San Francisco to get its load back than to carry it loaded the same distance.

Mr. GARDINER. It certainly would.

Senator CUMMINS. I do not quite understand your suggestion that a condition of that kind might be some explanation for the discrimination in the rates.

Mr. GARDINER. I did not intend to offer that as my suggestion. Mr. Esch wanted to know whether or not that might not have had some possible bearing, and my idea was that the railroad companies

might claim that some such condition existed and might use that as an excuse for charging more; but what I said in addition to that was that if there are empties going back from Reno there are also empties going back from San Francisco and they charge San Francisco a less rate, hauling over the mountains, than they do us.

Senator CUMMINS. I think there is a great deal of confusion about these proceedings before the Interstate Commerce Commission. I take it for granted that Judge Bartine, from Nevada, will give us an explanation of that. I would like it to appear in connection with your testimony, if it can be made to appear, or if it is true, that the fact is that after the act of 1910 was passed the railroads immediately made applications for an exception in every instance in which they had been charging more for the short haul than for the long haul.

Mr. GARDINER. Exactly.

Senator CUMMINS. And the Interstate Commerce Commission has been deciding those applications constantly ever since, has it not? There are many, many decisions since that time from those applications?

Mr. GARDINER. Well, if they have, and if they have affected the intermountain country, I do not know that. The only one——

Senator CUMMINS. I think in the main they have probably been granting them. I do not say they have affected the intermountain country, but it is true, is it not, that some time in 1916 the Interstate Commerce Commission passed on certain phases, anyhow, of the applications, so far as the intermountain country is concerned, and denied, in a degree, to an extent, the applications for the exceptions, and thereafter the railroad companies filed schedules advancing, upon certain commodities or certain kinds of traffic, their rates to the terminal points, and that brought about a complaint not only from the railroads but from many parts of the country, and the case that was decided on June 30, 1917, was an application upon the part of the railroads, or possibly others, too, to reopen the case that had been decided in 1916.

Mr. GARDINER. I think that is true. I think the 1916 case was one in which they asked for a rehearing which was granted—rehearing or reargument—but the 1916 order never became effective at all.

Senator CUMMINS. And then, on June 30th, the Interstate Commerce Commission denied the application for the exceptions and insisted that the discrimination between the intermountain rates and the terminal rates should cease.

Mr. GARDINER. That is one effect of that order: yes, sir.

Senator CUMMINS. Is not the order in just so many words a denial of the application?

Mr. GARDINER. As I recall it in that case, they took up the application and they took up those various intermountain cases and decided them all in one, and they denied the exception and ruled that they should also level the rates.

Senator CUMMINS. Now, that order was to go into effect on the 1st of October?

Mr. GARDINER. Yes, sir.

Senator CUMMINS. And before that time arrived Congress had passed an act which prohibited the railroads from increasing a rate



without the approval of the Interstate Commerce Commission, and it left the railroads but one alternative in leveling the rates, and that was to reduce the intermountain rates?

Mr. GARDINER. Yes.

Senator CUMMINS. Now, unless the commission thought it had sufficient information to increase the terminal rates, that act—I mean the last act—expressly says that that approval of the increased rate may be, if the commission so order it, put into effect without a hearing. I have wondered, in view of the long examination, extending over 10 or 12 years, of these rates, why the commission does not know enough about the subject to either allow them to increase the rate at the terminal points if they think it right—

Mr. GARDINER. I have had the same thought myself. I do not see why there is any necessity for a further hearing. All of that has been gone into.

Senator CUMMINS. I suggest these things to get the history straight in my own mind. I am very far from criticizing the Interstate Commerce Commission. I think it has been doing the best it can do in view of the volume of business it has to do.

The VICE CHAIRMAN. Did not Judge Hall and Mr. Clark, when they were before our conference committee, suggest that the time was rapidly approaching when they would be in a position to act instantly on these things without special hearings?

Senator CUMMINS. I have no doubt they had this in view when they said they knew all about these things and did not need any hearings to enable them to pass upon the question of raising rates or reducing them.

Mr. THOM. May I ask that the committee ask this question as a committee question:

Am I right in understanding that the real criticism which the witness makes is against the administration of the existing law, and that he is driven to a request for an amendment to the law by disappointment in the administration of the existing law?

Mr. GARDINER. Will you read that again, please?

Mr. THOM. Am I right in understanding that the real criticism which the witness makes is against the administration of the existing law, and that he is driven to a request for an amendment to the law by disappointment in the administration of the existing law?

Mr. GARDINER. I think the questioner is right to a certain extent in drawing this conclusion from what I have said: We are not satisfied with the way that the existing law has been administered. We are also not satisfied with the attitude which the railroad companies have taken toward the existing law. We feel that the existing law was plain; that any railroad company could have seen, on a casual reading of the law, just what Congress intended, and instead of cooperating with Congress for a speedy settlement of the difficulty which that law was designed to remedy, the railroads did all they could to delay the taking effect of that law; the railroads, by their own conduct, have invited a harsher and a more severe law, and their conduct justifies the enactment of just such a law to relieve the Interstate Commerce Commission from the burdens which have been imposed upon it by the railroad companies in their efforts to escape a law which they

knew must inevitably in the long run be decided against them, but yet were willing to fight through all these years.

The CHAIRMAN. Are there any other questions?

The VICE CHAIRMAN. I have nothing.

The CHAIRMAN. I received a telegram from the Spokane Chamber of Commerce asking that their hearing be postponed until Wednesday. What is the pleasure of the committee? If there is no objection, I will inform them that they can proceed on Wednesday.

The VICE CHAIRMAN. For one, I hope the witnesses who wish to appear will arrange things to appear as rapidly as possible, because we ought to wind up these hearings this week.

The CHAIRMAN. Have we a witness who is prepared to go on now? How about you, Mr. McCarthy?

Mr. MCCARTHY. I understood that to-morrow was the date set for me. I will be prepared the first thing in the morning. I am not prepared now.

The CHAIRMAN. Is there anyone from the coast terminal points who is ready to proceed?

Mr. MANN. If the committee pleases, the representatives of the coast cities feel that they are rather in the position of defendants inasmuch as they hold the opposite of the affirmative of the issue as far as this long-and-short-haul matter is concerned. The representatives of the intermountain points are asking for a change in the present long-and-short-haul law. We are desirous of hearing what they have to say, and when they have finished, our cities of the coast desire to be heard, and prefer to be heard in that order.

The VICE CHAIRMAN. Do you not think you have heard enough to enable you to reply?

Mr. MANN. We have not heard anything yet.

Senator CUMMINS. Would you be satisfied if the committee should close its hearings without hearing you? We might find ourselves in the position that the intermountain people will have taken up the entire time we can allot for these particular hearings.

The VICE CHAIRMAN. We do not care very much about plaintiffs and defendants. If you can tell us anything, I wish you would take the chair and tell us what you want to.

The CHAIRMAN. I suggest we go on with Mr. Troy, and to-morrow with Mr. McCarthy and then the Spokane Chamber of Commerce and that will conclude the hearing of the intermountain representatives. If there is no objection we will hear Mr. Troy to a conclusion.

#### STATEMENT OF MR. EDWARD P. E. TROY—Resumed.

The VICE CHAIRMAN. Before Mr. Troy begins I wish to state that I am going to insist that to-morrow morning the witnesses be listed and the time be allotted, and when the time expires, the hammer fall no matter whether he is talking or being cross-examined.

Mr. TROY. I did not expect to go on yesterday nor to-day either. Mr. Chairman, and of course I am not as fully prepared as I should like, but I have been making some notes during the hearings. I think from what you have heard already here, and from the evidence that is contained in the three volumes of your hearings, that it is quite evident that the private ownership of railroads has broken

down entirely. It seems to be admitted by all sides that there is no hope for private ownership; that if we continue as we are, as has been said by Mr. Thelen, president of our California commission, and Mr. Edgerton, and if I have read aright, even said by Mr. Thom in his evidence that is contained there—and I believe from what I have heard of him he is probably the ablest representative that the railroads have in the United States—that he practically admits that the private ownership of railroads has broken down, and that if the Government does not come to their assistance and do something, and if the railroads can not do something toward getting capital with which to do business, that we can have no further increases in the transportation accommodations of the country.

MR. THOM. It may be proper for me to say that the witness misunderstands my position. I do not want to interrupt him further than to say that.

MR. TROY. Mr. Thom, as I read his evidence, stated that if private ownership of railroads should break down, then the only alternative of the country was Government ownership, and that seems to me to be the only safe thing for the country under any circumstances at all; and I want to say this—it is in compliment to your committee and is owing to you—that your own actions in this hearing are to me evidence of the advantage of Government ownership. The people, through you, have ownership of their Government, of the legislative functions of the Government, and you gentlemen have spent this week and part of last week here listening, as I have observed, with the greatest of patience to every witness who is called here, and asking questions, using your utmost ability, and in every manner trying to get at the truth, and I will say to you frankly, gentlemen, that the press, through the manner in which they have frequently attacked Congress and Members of Congress, had at least shaken my confidence in Congress and its Members, but that your actions here in this investigation have greatly restored my confidence in our national Representatives, and I feel, at least, that you are endeavoring to get the truth. You want to do what is right, and I think that can be obtained only under Government ownership, because, as I said yesterday, all men—railroad men and others—yield to the pressure behind them, and it has been said that the pressure behind the railroads is the jobbers, and the various regulating bodies will yield to pressure—not dishonestly, but they will yield to pressure. You yield to the pressure of the people that elect you to the high and honored position you now hold.

So, your own action is one of the strongest arguments in favor of Government ownership of all public utilities.

Wherever it is possible, of course, that we can have full and free competition, then I would be opposed to Government ownership, but wherever it is a monopoly or may be made monopoly, then I favor Government ownership, and the majority of those with whom I am associated are of the same idea. They believe we should have Government ownership of all of the public utilities. While many Socialists work together with us, I personally do not uphold the socialistic view of the Government undertaking control of all instruments of production; so, it is not the socialistic view I am presenting to you at all; it is merely that the citizens who believe that



these corporations are performing public functions, functions that are natural to be performed by the Government and not by any individual. The very fact that, in order that these corporations may carry out their functions, you confer upon them Government powers, for instance, as the right of eminent domain, is conclusive evidence to me that it is a Government function that they are performing, and that they could not exist without possessing some of those governmental functions. So, if private ownership has broken down, then, as Mr. Thom says, it is evident there is no alternative but governmental ownership.

Senator CUMMINS. Mr. Troy, Mr. Thom has no right to interrupt you, but as I remember Mr. Thom's position, it was not that private ownership has broken down, but that the present system of governmental regulation had broken down. I think he did not go so far as to declare that there was no system of regulation that would make private ownership a better instrumentality for doing a public service than Government ownership and operation. I think it is only just to Mr. Thom to make that distinction.

Mr. TROY. I hope you did not so understand me. I say the conclusion to be drawn from his evidence, as I have read it, is that as it exists, private ownership has broken down and it can not increase its facilities for serving the people without the Government coming to its rescue and furnishing it capital. They say they can not secure any further capital and can not extend their railroad improvements. I understood the committee itself is of that opinion, that we can not have any increases of transportation facilities in the country to-day, as transportation conditions exist.

Senator CUMMINS. Not every member of the committee is of that opinion. Mr. Thom contends that unless we permit the railroads to increase their revenue—not that the Government is to furnish the revenue—but unless the rates charged for the services rendered are increased that there can be no enlargement of railroad facilities. That is his contention, as I remember it.

Mr. TROY. Well, I would interpret that as further evidence of the failure of private ownership. I made up some figures six months ago as to the accumulations of the majority of the railroads.

I am not familiar with the railroad situation in the East, and because of the failure of the Interstate Commerce Commission to give the people the data and statistics it has been impossible for me to get anything up to date, but from what figures we have I tried to work out the profits the railroads have accumulated, in addition to paying their dividends, and I found it was over a billion dollars. I think the Chicago, Burlington & Quincy—I am not positive of that—has accumulated a sum, and it has been invested in the road that is about equal to or exceeds the capital invested. The Southern Pacific, I remember, had a profit on the 31st of December, 1916, of about \$170,000,000, and at the same rate, at the end of this year it would have accumulated a profit of about \$200,000,000, and the capital of the Southern Pacific, if I remember rightly, is only about \$250,000,000, and the Southern Pacific could pay dividends out of the profit it has accumulated for 18 years without making any further profits, and yet the Southern Pacific was one of the companies that applied to the Interstate Commerce Commission for increases of rates

and also applied to the local California railroad commission for an increase in their rates, although it had made this enormous accumulation of profit during the year 1916 and had made a greater profit than ever before in the history of the railroad—about \$60,000,000—and yet those gentlemen, you might almost say, had the impertinence to come before the public and say they were entitled to increases of rates, and that if they did not get an increase of rates they could not continue to do business and give service to the people.

Now, gentlemen, with such a profit—the greatest profit they have ever received in their history—if such are the conditions in the operation of their business that they tell you they can not give further service to the people without an increase of rates, is not that a confession of the failure and breaking down of private ownership? I can not place any other interpretation upon it.

The history of the Southern Pacific—and I do not mean to be personal in anything I say—the men who operate the Southern Pacific are all good men, and, under Government ownership, I believe they would operate the road as efficiently and more efficiently than they do for the Southern Pacific Railroad Co.; and that applies to even the worst men in the employ of the Southern Pacific. We had one man, who was chairman of our park commission—and he made one of the best park commissioners we ever had in San Francisco—and yet he was at the head of the publicity bureau of the Southern Pacific, and attended to all the corruption in the legislature. He was the man who was doing all that awful work for the railroads, and wanted to do it. Why, I remember at one time when a gentleman who was active in politics said to this man, “I know how you can get rid of the political bosses,” he said, “But if we get rid of the political bosses, what will become of me?” He wanted to continue that system; but at the same time, when placed on his honor and given an appointment under the municipal government to conduct a branch of the government, he gave us the best administrative government we ever had in this city, and really initiated the work of building our beautiful parks.

So, under Government ownership, even from the evil men you get better services than you do now under private ownership from the very best men. The Railway Age Gazette, in excusing the awful scandal of the Rock Island Railroad, said that it was because that railroad was managed from a distance—its ownership was not resident—that it was foreign to that section of the country, and that the ownership existed a thousand miles from the location of the road. But here we have the Southern Pacific, owned in Wall Street, in England, and in Berlin, and other sections of Europe, and its directors and its president are 3,000 miles away from here. Of course, they give the very estimable gentleman who is managing their property here the title, as I read it in their report, of president of the lines west of El Paso—not president of the company, mind you—and they call a lot of their local men vice presidents, in that way giving them more dignified titles in the local community and making the local people think the management is a local one. Mr. Krutchnitt, the chairman of the executive committee, is the real president of the company, and he is in New York.

That company, gentlemen—and, I state, I am not personal at all in what I say—but from the very beginning the Southern Pacific Co. has been the head and brains of all of the corruption in California. It had an organized corruption bureau and interfered with all legislation. Well, you may say, it was necessary for them to be in politics. I have heard that expression, and I read it frequently in the railroad journals and other public-service corporation journals that I subscribe to; but they interfere in every character of legislation and dictate every piece of important legislation in this State.

I can remember that it was along about 1908, or around about that time, when the ladies here in this State who were making their fight for suffrage, had practically pledged the members of the legislature to submit a suffrage amendment to the people, but when they went to the legislature they were defeated. One of the ladies who was very active in that movement, a brilliant, able, and good woman, after she returned to this city from the legislature, was sent for by Mr. William F. Herrin, the attorney for the railroad, and to whom all these legislative agents report, and this lady said that Mr. Herrin said: "Mrs. So-and-so, why did you go to the legislature to try to put that bill through? Why didn't you come and see me first? Don't you know you can not get anything through the legislature without my consent?"—that Mr. Herrin sent for her and told her that, and your associate in the Senate now, Hiram W. Johnson, was elected governor of this State by simply going through California and speaking the few words that he, if elected governor, would drive the Southern Pacific Railroad out of politics, and during the first four years Hiram Johnson was governor that is what happened, and Hiram Johnson was the first governor California ever had that did that, and he did more for the progress of legislation than any governor we had before. And then the railroads began, in a very insidious way, to again get control of the legislature, and this last legislature that we had—why, gentlemen, the railroads took a man, a Mr. Hill, who I am told was secretary to Mr. William F. Harriman, and they made him their representative, and he appeared before the people of California as the political representative, as he said, of all the corporations, and began to organize the State, giving it out to fight the jitneys in order to get legislation against jitney busses. He organized the electric railroads and went to Sacramento, and in Sacramento they thought they could deceive the people by assuming a booby mask, and they put to the front some one everybody believed was harmless, but all the time having behind him these able men.

Look up the last legislature. Take the tax commission. It was a body that made some splendid recommendations in the way of tax legislation that would have been a great benefit to the people of California. They made a few concessions to the reactionaries in order to get their legislation through, but the assembly was reputed to be controlled absolutely by the corporations, and nothing of advantage to the people that this commission recommended was adopted, and the only thing adopted was a reactionary measure taking away from the cities and counties control of taxation and giving a few officials in the State capital the right of veto upon any increase in taxation in any county or city, and that is something that the railroads have been seeking for years. In fact, the Santa Fe Railroad in its report to



its stockholders, urges that they do everything to keep down taxation, and yet in California here it makes no difference to them on their operative property what the taxes may be, because they are not taxed locally by the cities and counties or districts on their operative property. Yet they interfere in every character of legislation in California.

At one time they dominated the selection and appointment of every official from constable up to the supreme court in the State. There was a perfect reign of terrorism in California caused by the Southern Pacific Railroad, and to-day we have all the corporations operating together under one head, going to the legislature and telling the people they have one representative in their lobby.

You can see, gentlemen, why it is that a person in California, with that experience with the public railroads alone and other public-service corporations, would fear a tremendous corporation like that which has been proposed—one great corporation to operate all the railroads of the United States. They know how the Southern Pacific Railroad in this State has dominated things. There is not a corner of the State where it has not dominated the politics of local as well as State affairs, and if a corporation like the Southern Pacific, with but about 7,000 miles of track, could become so powerful, with its foreign management, what would be the result if we had such a corporation as has been proposed, or even the regional corporations proposed? It is awful.

Recently the Bulletin, an evening paper here, has been publishing some reminiscences of a former political boss—a Mr. Martin B. Kelly. He has described how, in the appointment of a Senator when one of our Senators had died, the governor was to be paid \$50,000 to appoint a Senator that the railroads wanted. It has been recognized for years that the Southern Pacific has dominated all political offices. One of the greatest scandals and most lengthy period of fighting with the railroads and litigation with the railroads that we have had was over taxation during the eighties and later. We fortunately had Mr. John P. Dunn and others. They allowed us a State board of assessment. The railroads fought those assessments and tried to get a reassessment bill through the legislature. It was notorious that they bribed members of the legislature and paid them \$500 apiece to get the bill through the legislature. The whole history of the Southern Pacific Railroad from beginning to end in this State has been one of corruption and one of terrorism.

You gentlemen, I presume, are familiar with the report of the Pacific Railroad Commission, of which Senator Black was chairman. In that report he showed that a small group of men had robbed the railroads by letting contracts to themselves, and they, as directors of the railroad company, sat on the board of directors and voted for the letting of contracts by the railroad company to themselves. This commission figured they robbed the Central Pacific and the Southern Pacific Railroads of over \$100,000,000 of bonds, and yet that \$100,000,000 has since that time been a charge upon the people of the State of California and upon the transportation in and out of this State. We have had to pay interest on that great principal all the time.

We feel the need of Government ownership in this State, and I have been writing on that question and talking on that question for 25

years, and I feel certain that a great majority of the people of California are in favor of Government ownership, and I feel that if the question were put to a vote in California, that even to get rid of the political corruption that has existed in this State, the interference with all our affairs, political, business, social, and religious—because there is no phase of life in California that this corporation has not interfered with—but to get rid of that horrible interference, that our people would vote from 5 to 1 to 10 to 1 in favor of Government ownership of railroads. It is the most oppressive and dangerous thing that we have ever had in California.

The people had confidence in Gov. Johnson because of his participation in the graft prosecutions and they elected him by an overwhelming vote, and he proved he was worthy of the confidence of the people of California by the great things he did.

The CHAIRMAN. Do you claim, Mr. Troy, that those abuses exist to-day?

Mr. TROY. To a very large degree: yes, sir. The Southern Pacific Railroad—for instance, you were told by Commissioner Edgerton about the proposal to separate the Southern Pacific Railroad Co. from the Central Pacific Railroad Co. Mr. Edgerton stated he did not favor that. But I favor that. I believe it is wrong to have that combination, and I will say that I remember as a schoolboy—I was born in this city—as a schoolboy one of my schoolmates went into the employ of the Central Pacific, and he told me that at that time they were extending the Southern Pacific, and he told me the Southern Pacific was stealing the cars and other equipment of the Central Pacific, a Government-aided railroad, and turning them over to the Southern Pacific, painting out the Central Pacific designations, and painting in their stead "Southern Pacific"—a Government-aided road and the cars bought by them.

When that action was recently before the court the Attorney General, endeavoring to bring about that separation of the Southern Pacific Railroad Co. from the Central Pacific Railroad Co.—why, the Southern Pacific merely sent its traffic man through the State and brought about meetings of chambers of commerce in the different counties and towns, and the business men there, under the thumb of the railroad, did not dare to disobey their orders, and adopted resolutions, sending them to the Attorney General, and wherever else they could to reach the court, urging against the separation of those two railroads. As a matter of fact, if those two railroads were separated, then we would have two competing lines in California in addition to the Santa Fe and the Western Pacific, and the people would certainly, at least, get the benefit of some of that competition.

The only argument against the separation of those two railroads is that they are so interwoven and intertwined in their business it would be impossible to separate them. The only intertwining here is in a line from Benecia to Sacramento and some sections of the line in the San Joaquin Valley. As a matter of fact, those two railroad companies—the operating company here is the Southern Pacific Co.—the Southern Pacific owns but very little railroad. It owns the terminals here in San Francisco, and when a franchise was granted for a terminal—I think it was in Oakland, if I remember rightly—it had it granted to themselves, the Southern Pacific, so that they could control the terminal, and controlling the doorway they would control

the entire line. But they also own the stock of the owning companies of the main line and other lines—the Central Pacific Railroad Co. and the Southern Pacific—and then they lease those railroads to themselves, as owners, and operate them. Why is that done? Why, simply so that they can complicate things—and they do it purposely—so that they can not be unscrambled except with great difficulty.

Six years ago I was in Oregon doing some work for Mr. W. S. Ouran and others, valuing some branches of the Southern Pacific and the Portland Railway, Lighting & Power Co., and the Western Union and some other public-service corporations, and I found the Southern Pacific—it, as I state, owns stocks in these companies—if I remember rightly it leased two of the companies of the owning companies the rolling stock and then leased back to the owning companies the rolling stock and right of way and stock and equipment, and in every way they tried to tangle things up in every possible way so as to confuse the courts and confuse any regulating body, and solely in order to make more money.

That brings to my mind one point on that: The Southern Pacific Railroad Co. owns, I think, a half interest with the Santa Fe and a few small private owners in the Associated Oil Co. and some other oil companies. They sell that oil to themselves on the market price of oil and then the oil company pays dividends out of its pockets—the dividends of one of the companies, as I recollect, was about 25 or 30 per cent on the stock—and that dividend is paid into the Southern Pacific for its ownership of that stock, and it is not put in as a credit against the operating expenses to reduce the operating expenses: no, but they credit that to nonoperating revenue and by that means they make a showing of higher operating cost, and they make this showing in order to go before the commission and say, "Here is what it costs to operate over our road," and they get their rates increased. The telephone company does the same thing. The P. T. & T. Co. has the Western Electric Co. that it owns. It owns all the stock and controls it and compels all the local telephone companies to purchase all their equipment and supplies from that Western Electric Co., and then not only do they make a profit, gentlemen, off the supplies that the Western Electric sells to the telephone company, but in the testimony before the Oregon Commission and testimony before our commission it was shown that they make a charge on all of the income of the Pacific Telephone Co. of  $2\frac{1}{2}$  per cent, simply because they are organized as a business and furnish them with supplies. After running that business the telephone company pays  $2\frac{1}{2}$  per cent of its income and, again, it pays a rental for the instruments equal to  $4\frac{1}{2}$  per cent of their revenue.

These public service corporations are never honest—never honest with the regulating body or with the people or with the legislature. They always try to deceive them and always try to make false showings, always for the one purpose of making more money. They reduce their service and will not give proper service to the people in order to make more money.

Under Government ownership the sole purpose of Government ownership is service—to give service to the people at the lowest possible cost, and that is the result always. We have the railroads



coming before the Interstate Commerce Commission with enormous profits, and their profits increasing, and yet asking for increases in rates.

Take, for instance, the Pasadena municipal electric plant, of which Mr. C. W. Gorman has been the efficient manager since 1906. In his report he shows there has been an almost 50 per cent increase in the cost of operation of that plant, but by good management he has been able to economize in other directions, so that the actual increase in cost of maintaining that plan is very slight—part of which coming from an increase of business. Yet the railroads, on the other hand, notwithstanding their profit, want increases in rates; and I want to say this, gentlemen, as to the Interstate Commerce Commission—I simply want to lay the facts before you, and I do not make any charge, and I do not think I have made any charge against the commission, but anybody can draw their own inference:

The Interstate Commerce Commission sent an examiner out here last year. I do not know what his report was; but, as nearly as I can recollect it, it was against any increase in the rates. That makes no difference. They took the report of the examiner, and at the same time they had the reports of the railroads—the Southern Pacific Railroad as to its receipts, and the reports of the Santa Fe as to its receipts, and all the other railroads in this case as to their receipts—and everyone showed enormous increases in receipts and profits—the Southern Pacific showing a profit of \$60,000,000, a greater profit than they ever had before, yet the Interstate Commerce Commission issued an order last January—I believe it was during January—increasing rates on many commodities 15 per cent, and the reason they gave was that they wanted to equalize rates on account of competition with the Panama Canal. They wanted to equalize them by raising them. They never equalize them by reducing them. The local commission was then considering further increases in freight rates, which were being asked in May, only five months after the previous increase another increase was made that figured all the way from 30 to 35 per cent, yet, notwithstanding that fact, the Interstate Commerce Commission did allow the railroads an increase of 15 per cent on a ton of coal from the Utah coal fields and the Colorado and Wyoming coal fields that supply California with coal. They are the principal supply fields, and we are endeavoring to get a reduction in the price of coal to the people. They raise rates instead of reducing them. While the Government is constituting governmental regulatory bodies to cut down rates, the Interstate Commerce Commission is raising them. While this country is at war, with many young men going to the front to defend the country, the railroad companies are rushing to the front asking for increases in their receipts.

I believe there is a definite positive reason behind this thing. The railroad companies see that we have Government ownership with us right now. It is right here and they can not escape it, and they want to get these increases so, in case of the purchase of the railroads by the Government, they want the purchase price fixed on their profits—to have the value of the property based on the profits earned—and, if they can make extremely high profits, in that way they will demand more money for their properties. That

is shown to be true from the fact that the railroads are objecting to the valuation that is going on, and if they have an official journal in the United States, it is the *Railway Age Gazette*, and in an issue of that paper, which I got about a week ago, one of the most recent issues, I noticed it denies the statement of Commissioner Thalen that some of the railroads favored the valuation, and said in an editorial that the railroads have always opposed valuation and have never favored it.

You have asked the question, Senator, as to what was the basis of rates. You asked it of some gentleman here. I have made inquiries as to that matter for many years. I wrote, when John Marble and Franklin K. Lane were members of the commission, and I got the decisions of the commission and read them carefully, and I must say that I could not find any basis for rate making, except one, and the reason was that which a child will give you for anything that it might be asked about—simply because.

There is no other reason the railroads can give for their rates than the simple word "because." They have no logical basis of any kind, and in fact John Marble told me, to show you, Senator, the railroads are business men and always want to make money—John Marble and I were very good friends and we used to exchange views frequently. He told me there was only one railroad in the country—whether he meant up to that time or at that time I do not know—but he said there was only one railroad in the country that knew what it cost to carry freight, and that was the Pennsylvania, and that it was four-tenths of a cent a mile, and he told me of an incident that happened during the competitive period. I think it was in connection with a railroad manager in St. Louis, where they were making various allowances to the shippers, and this manager thought that some of the allowances made to one of the shippers looked odd, and he had his clerks look it up and found his railroad was paying that shipper in allowances more money than the railroads were receiving from the shipper for carrying his freight. That was the businesslike way in which some of the railroads conducted their business. They carried passengers during some of their competition at one time from Los Angeles to New York for \$1. Judge Sims asked one of the witnesses if the railroads should not have increased charges for carrying the baggage of a passenger and if it was not unfair to carry the baggage of one passenger and no baggage of another without making a difference in the charge.

Why, Senator Buckley, of Grand Junction, Colo., now stopping at Palo Alto, told me he came from there a few weeks ago. I spent a few days with him last week, and his ticket read from Grand Junction via San Francisco to San Diego, about 500 miles south of here, and Grand Junction is about 1,300 miles east, and when he stopped he wanted to get his return on his ticket. They said, "No; the fare is the same to San Francisco as it is to San Diego." That is the logical way in which the railroads charge fares as well as freight rates. There is no logical basis for their charges at all; not even the old cry of all the traffic will bear, that C. P. Huntington used so often to give expression to is the true rule.

I have spoken to you gentlemen along certain lines to demonstrate to you that bodies like the Interstate Commerce Commission, in the

work it is doing, is not giving out information to the public, while you gentlemen, being close to the public, give out all the information you have, and you know that the public is entitled to all this information, and as to the basis of rates—what is the rule with reference to rates. Why, John Marble, who was as good a man as ever lived on the earth—he was honest, very able, conscientious, and liberal, and his sympathies were with the people—when he first went on as an attorney with the Interstate Commerce Commission, when he would come out here I could observe he had not lost any of his old attitude toward the people, but when he became secretary of the commission and finally a member of the commission, I could gradually notice a change in his sentiment, and while he was on the commission, at one time he made a remark to me, in discussing railroad rates, “It makes no difference what a rate is as long as there is no discrimination.”

That is the very sentiment you have had expressed here to-day, even by the gentleman who proceeded me from Reno. He said that he was willing that the rates should be raised, and you, Senator Cummins, brought out the fact that no consideration has been given to the consumer, who pays the freight, and that is the fact before the Interstate Commerce Commission and all regulating bodies, that no consideration is given to the consumer who pays the freight. The contest, in all the evidence that I have had access to, in the 15 per cent advance rate case, and all the cry, was for the shipper, and as far as I know the only reason the Interstate Commerce Commission refused to allow the 15 per cent advance was because of the chaos it would bring about in the commercial interests of the United States in upsetting differentials, but as far as the interests of the people were concerned, I could see nothing in the decision of the commission or in the evidence that was presented before that commission—I could not see any consideration at all for the people. The people have nobody to plead their cause. With this continued pressure that is back of the commercial bodies, I have seen the San Francisco Chamber of Commerce—Mr. Mann is an able and a good man, and he represents that body as attorney—I have seen where he has gone before the commission asking that rates be kept up, and I have seen other commercial bodies urge against reductions. I heard the commissioner from Arizona opposing the back-haul charge to Arizona from coast points, but if the other rates were raised to equalize the situation, he had no objection to it. He thought it was all right.

As long as it will take care of the interests of the business of the commercial people of that community, they do not care what the rate is, and that idea is going to prevail always in regulation of rates under a private corporation, but under Government ownership there will be no consideration of the interests of any private persons who want to make a profit out of transportation. The only consideration will be the people—service to the people of the United States, and the commercial interests will not be dominant then, in case of Government ownership of railroads. The people will realize then that it is to them that are passed all the charges made by railroads on any business handled by them. That is another reason why we should have Government ownership of railroads, to get rid of that oppression in charges and utter disregard of the rights of the people.



Take, for example, in San Francisco. I think you gentlemen should make this a part of your record—you ought to be familiar with all the phases of the question—you should get the book published by Franklin Hitchcock called "The System," in which he gives the history of the scandal and graft in San Francisco. You should become familiar with that.

There was one man who was indicted by the grand jury and charged with bribery of the board of supervisors. This man was assistant to Calhoun, president of the United Railroads. Ever since then that man, who was brought out from the East by Calhoun, has been forcing himself on public bodies and public organizations and getting into public organizations of every character to give him prominence, and to my mind one of the most scandalous things that has occurred—and it is more scandalous since Gen. Pershing has gone to France—but when Gen. Pershing was down here in Mexico this man went down there and wrote letters to the press telling of his visit to Gen. Pershing as his guest and companion—this man who was indicted for bribing supervisors—and this man brings influence to bear on all parties to bring him into prominence. The last thing that has occurred, and another scandalous thing, is that I understand from the adjutant general of the State of California that this man has been commissioned a lieutenant colonel of a regiment that is popularly known as the Grizzlies, which have been stationed down below the city a few miles. That man who is charged with the most traitorous conduct to his country by a grand jury in betraying his country in peace now wants to pose as a leader of a part of the American Army in time of war. If such a man should be put as the head of the forces of our country, or should be in close and intimate touch with the general, certainly the people would not have much confidence in the Army. I do not believe the President—as he must know of this man's character—will ever promote him to command any portion of the Army of the United States, even if our State government does place him in control of part of the State forces.

You can see what we have to contend with. These men who corrupt and bribe and endeavor to destroy and tear down the Government are not satisfied with the money they make out of the corruption. They want more. They want social power and governmental power. They go into the churches of all denominations, and men in the churches who have stood honestly for the best interests of the Government have been driven out of the community.

Seven years ago I was in San Diego writing for the Scripps papers on franchise questions. There was a Rev. Mr. Gill down there, the pastor of the Methodist Church, a brilliant man who had built up his church from the poorest to the greatest in that city. On moral grounds he was opposed to granting a franchise in that town, and the forces down there that control that town drove him out of the church and out of the city. Here in two other churches of different denominations in San Francisco men have been driven out of their church because they stood for decency in public life in San Francisco. So, these things go into every nook and cranny of our life, and the people are afraid to express their own convictions. The merchants fear to express their opinion. I know personally of a case where a newspaper was publishing some articles written by me, I will say,

against a certain charter amendment. The editor promised me he would publish them. He had not published more than two of them when 17 men, a committee of the advertisers in the paper, called on the paper to support the charter amendment and demanded that the paper make me do likewise, and that if the paper did not do that they would take away advertising amounting to \$360,000 a year and destroy it. That is the way the press is controlled.

These public-service corporations organize through the banks, and the banks make loans to the merchants, and the railroads, controlling their freight shipments, have absolute control in these matters. They have such control over the merchants that they are able to compel the merchants to go out and plead their cause—the cause of the corporations—in utter disregard of the people.

We had an instance here in the granting of a franchise to the Southern Pacific Co. Mr. Mann and Mr. W. R. Wheeler, representing the chamber of commerce, went to the board of supervisors and asked that they insert, as a condition of that franchise, that the Southern Pacific should no longer make a switching charge to the private team tracks that they had been making. The United States Supreme Court afterwards held that to be discriminatory. The Southern Pacific was collecting \$250,000 a year from the merchants of San Francisco for that team-track charge which they made at San Francisco, San Diego, Los Angeles, and nowhere else. The public utility committee did put in a provision of that kind in the franchise, and the franchise was passed to print, and should have been passed in 90 days. Nothing was done, and they waited until six or eight months later, and when the election came on these men were defeated—the corporations defeated them—and when they got a board here composed of men they wanted, the man who was president, Mr. Brand, went up to Mayor Roth and discussed personally with him this clause, and Mayor Roth came out and told the supervisors to strike out that clause, and in that form the franchise was granted to the Southern Pacific. The chamber of commerce did nothing to protect the interests of the merchants. Then, a short while afterwards, it was announced that no appropriation had been made by the chamber of commerce to sustain the work and pay the salary of Mr. W. R. Wheeler, and he had to resign.

That is the way the Southern Pacific Railroad interferes in our affairs. In that same franchise we sought to submit it to a referendum of the people, and our board of elections threw it out. They ride ruthlessly over the people's rights and destroy and disregard all legislation that the people may adopt to maintain their rights. Now, I have gone on, gentlemen, in a way that I had not thought of at the time—

The CHAIRMAN. Mr. Troy, can you bring your remarks to a close within a short time? We will have a full calendar to-morrow and we ought to adjourn now. Could you get through in, say, 15 minutes?

Mr. TROY. I wanted to touch a little more on the subject of taxation. The figures I stated yesterday were merely an assumption, but I have looked up the 1916 statistical report and I find that the taxes paid by the railroads that year were one hundred and forty-four and some odd million dollars, and the capital of the railroads

in stock and bonds was six billion and some odd dollars, and the funded debts amounted to nine billion seven hundred and some odd million dollars. Figuring the tax on a capitalization basis of 5 per cent, it would give a capitalization on that tax of \$2,820,000,000. As to the value of their land, their right of way—as to their franchises and other intangible property—of course, I do not know that, but it is generally conceded, I find, by all writers, that the stocks of railroads do not represent any investment at all, taking it as a whole.

Of course, some stocks have been paid for, but considering the watering, the bond issuing, and plundering done by railroads like the Southern Pacific in the aggregate, the stock does not represent any investment. I figure that that stock would pay sixty-one one-hundred-and-sevenths of the total it would represent. You can see, gentlemen, that if you were to take over the railroads of the United States to-morrow, you would have to pay approximately one billion and seventy-seven odd million dollars more than they were worth, due to the fact that the railroads are allowed to recover the taxes they pay on their land values and franchise values. That is decidedly unfair. No private owner of land could do that.

Another matter I wanted to bring to your attention was the waste which exists under private ownership. We have some of it right on the coast, two roads, one of them the Southern Pacific, in some places for a distance of a couple of hundred miles paralleling one another. I believe you can throw a stone from the Southern Pacific to the Western Pacific. I believe there was something like \$80,000,000 invested there, and it was sold for \$16,000,000 in the Federal courts after the Western Pacific failed. Then again, take in Oregon, in the Deschutes River, when Harriman attempted to come into California and down that river, or rather Hill, when he started to build his line, Harriman went right along the river, foot for foot with him.

There was a pure waste of capital and that was done for the purpose of keeping Hill out of California. This extension jointly by the Southern Pacific and the Santa Fe of this Northwestern Pacific from above Ukiah to Eureka—that was done for the purpose of keeping Hill out of California, keeping other roads out that would give additional service to the people. This control in private hands is dangerous. I would hold it as a principle under private ownership that there should be the fullest and freest competition. That is the only way to get service. In public ownership, or Government ownership, then you can have monopoly and there will be no waste in construction. In fact, the Government could sell the service to the people at a far less price than the railroads can, because of the infinite number of economies that could be brought about in that manner.

Not only that, but we have had discussion all day of certain locations trying to get advantages over other locations. You are going to have it again to-morrow—simply the people in one location trying to get an advantage over people in another location—and each will say that they need this; one will try to influence the railroad to give them this advantage and this system of charges, and the other will do the same, and there will be charges of favoritism and all that,



but under Government ownership, gentlemen, you would not have that trouble.

Under the parcels-post system you have a fair, just, and equitable system, and so, if we had Government ownership of railroads, all inequalities would be wiped out and eliminated entirely, and you would not have this discussion here consuming your valuable time, and the work of the Interstate Commerce Commission would be reduced to a mere nothing. As one of the witnesses in your former hearings stated, in Germany they have one man who handles all the railroads at a salary of \$9,000 a year, when, in this country, there are individual men who get \$50,000 and more a year to manage only one railroad.

The Railway Age Gazette itself has been complaining about the management of railroads being in control of supply companies that sell supplies to railroads, and by that means cutting off competition in purchases, and thereby costing the railroads a great deal more money. With Government ownership that would be eliminated. There could not be the stealing that goes on under private ownership under Government ownership, because under the Government everything is done and recorded on the public records, and the Government punishes anybody that may violate the law and abscond with Government funds. But under private ownership of railroads you find frequently people stealing railroad funds and the railroads hushing it up. They know too much. A man who was a construction man for the railroads told me a few years ago that he had to sign vouchers for the railroads for men who never did any work. Another man told me he was dismissed by the railroads and he fought them to restore him to his employment, because he knew how the heads of the company had been robbing the company. Graft permeates these corporations, but they suppress it.

Under Government ownership every act is a public act. That is why I referred to this committee, and the way in which it makes everything public—everything that transpires before your committee is made public, and everyone is able to get a copy of your proceedings. I went to the Southern Pacific office to get a copy of the last report, and could not get it. They said it was on file in the library, and I had to get the secretary of the public library to telephone a half dozen times in order to get a copy of it. I wrote the president of the Southern Pacific as to land grants and I got no reply at all.

Gentlemen, you are taxing the people of the United States now to pay for this war, but you are taxing production. The people are willing to pay for the war, but the taxes should be fair and just and equitable. You are taxing production, and you pass it on to the consumer. Here are these railroads that 50 years ago were given enormous grants of land, and if you read the testimony contained in the proceedings before Senator Black's committee, you will find that one of the railroad men testified that the grant of the Central Pacific in California and Nevada and Utah comprised 8,500,000 acres of land. Now, after 50 years, you will find the company—I could not obtain it in the office, but I finally found the figures in Poor's Manual—that they still have 8,000,000 acres. The Southern Pacific Land Co. in the southern part of the State, in the Imperial Valley,

will keep the country as a desert as long as they can, and wait, until the people force development.

When I was down there a few years ago, I was told by a gentleman there that the Southern Pacific Co. had taken 45,000 acres of land in and around Niland, and in that vicinity, and had given an option to certain people, to a certain firm, in which Gen. Otis and his son and Harry Chandler are among the principal stockholders, and that they did not pay a single dollar for it. They simply got an option, and are selling the land from sixty to one hundred and twenty-five dollars an acre, and the poor farmer who buys it has to develop it at a great cost. Instead of giving that land to farmers, they turn it over to newspaper men whose papers are supporting them, and allow them to make millions of profits out of it. They keep our whole State back.

I could give any number of instances to prove my argument. The State forester shows that the Southern Pacific owns 18 per cent of the timber of California, and the Southern Pacific is developing none of it, and in that way is keeping the country back, and up in that section right in the timber country, farmers and others who want to get timber have to pay more than we have to pay in San Francisco where our lumber is brought 1,500 miles from Washington and a shorter distance from Oregon. That is due to the fact that these companies have been able to keep this property out of use and the Government should put a tax upon their lands, according to population and during the War of the Rebellion, about 1862, the Government did impose a tax upon all land throughout the United States. I found that tax entered upon the assessment roll of the county of Sacramento for the year 1862 and it has been entered on other counties. They do have the power to do that. It is a most fruitful sort of taxation and one that would be beneficial.

In Kern County, the great oil county, where probably more oil is produced than any other section of the world, the Southern Pacific, with their land grants, kept that county back for years. Oil was first discovered on a Government section. The Southern Pacific has never developed its land. Under Government ownership the Government is more progressive than the private owners.

The telephone monopoly has kept back the development of telephonic inventions. The automatic telephone is the best equipped one, but in order to make profits the great telephone monopoly that we have use the old telephones and will not furnish the new telephones to the people. We have the Home telephone here with the automatic telephone in use, and the Pacific Co. bought that company out and dismantled the plant, and I understand that the city government of Eddington bought up that equipment and sent it to Australia. The Australian Government is using the automatic telephone, and on the question of telephones, I think, gentlemen, you ought to make as part of your record the statements and testimony of former Congressman David J. Lewis. His statements are the most able and exhaustive on the telegraph and telephone questions that I have ever read. As I notice, the act provides for a study of that question by your committee, I believe you can obtain a mass of information from his testimony.

Mr. ESCH. Mr. Lewis made a request to appear before us, but after the request, he was made a member of the Tariff Commission.

The VICE CHAIRMAN. We will use his report.

The CHAIRMAN. This is a very interesting witness and his testimony is quite valuable. He has had almost two and a half hours. We will not have time enough to allot that much time to other witnesses.

Mr. TROY. I did not intend to take that much of your time.

The CHAIRMAN. We thank you for the information you have given us, but we can not give that much time to other witnesses.

The VICE CHAIRMAN. With the understanding the witness has closed, I move that we adjourn until half-past 9, at which time we will hold an executive session and go on with the regular session at 10 o'clock.

Mr. TROY. If you want to put in any time later on, I will be in attendance.

The VICE CHAIRMAN. I hardly think that we will be lacking in witnesses.

(Whereupon, at 5 o'clock p. m. an adjournment was taken until to-morrow, Tuesday, November 6, 1917, at 9.30 o'clock a. m.)

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#### TUESDAY, NOVEMBER 6, 1917.

The committee met at the Palace Hotel, at 10 o'clock a. m., Tuesday, November 6, 1917, pursuant to adjournment. Senator Francis G. Newlands presiding, Hon. William C. Adamson, vice chairman.

The CHAIRMAN. The committee will come to order.

#### STATEMENT OF MR. W. S. McCARTHY.

The CHAIRMAN. Will you please state your residence and occupation?

Mr. McCARTHY. W. S. McCarthy, representing the Traffic Bureau of Utah, 412 Kearns Building, Salt Lake City. In that connection, I should like to say, gentlemen, that the Traffic Bureau of Utah is an organization composed principally of shippers of Ogden, Salt Lake City, and Provo. Until this year there was no public utility commission in Utah. It was the last State in the Union to establish a public utilities law and establish a commission.

By way of explanation, I might say that it might seem strange that our commission is not represented here. They have been very busy since the law went into effect and they went into office in March, and without intending any disrespect to them in any way I wish to explain that they are probably not as familiar with these transcontinental rate adjustments and transcontinental rate situations as some of us who have been connected with the matter for years.

The Commercial Club Traffic Bureau of Salt Lake City, Utah, as it was formerly known and as it is referred to in some of the matters before the Interstate Commerce Commission, now the Traffic Bureau of Utah, has been endeavoring since 1908 to bring about a readjustment of rates to the intermountain country to what is regarded as a reasonable basis, and has spent a great deal of money in that effort.



Before proceeding, I should like to read a telegram, dated Boise, Idaho, November 2, addressed to me, as follows:

Impossible for commission to come before Newlands committee. We strongly support absolute long and short haul clause. We oppose curtailment of powers of State commissions by extension of powers of Interstate Commerce Commission. Please represent Idaho commission as above.

At the outset, gentlemen, I wish to say that the interests I represent feel that security issues of public utility corporations should be under most strict governmental supervision. We think that some action looking to providing for such supervision should be taken. We also feel that the fourth section of the act to regulate commerce, the long and short haul clause, should be amended and should be made absolute, because of the gross abuses that the exemptions authorized at the present time have resulted in. It is our view, as has been expressed here, that it was the intention of Congress to allow departures from the provisions of the fourth section only in special cases, and we do not feel that any adjustment of rates that covers territory comprising practically one-third of the United States can, in any sense of the word, be regarded as a special case.

Some questions that were asked by members of the committee seem to make it desirable to review the history of this fourth section, as applied to the intermountain territory in a little greater detail than it has been set forth, and I think I can do that very briefly.

In observance of the fourth section of the act to regulate commerce as amended June 18, 1910, transcontinental carriers through their agents issuing westbound continental tariffs, filed with the Interstate Commerce Commission fourth section applications seeking authority to assess charges on shipments of freight originating in eastern defined territory, destined to points intermediate to Pacific coast terminals, higher than were contemporaneously in effect from the same points of origin to Pacific coast terminals.

After hearing and investigation of these applications, the Interstate Commerce Commission on June 22, 1911, in disposing of them ordered that westbound rates from Missouri River points must not be higher at any intermediate point than to a more distant point. From Chicago territory the rates to intermediate points might exceed those to more distant points by not over 7 per cent; from Pittsburgh territory by not over 15 per cent; from Atlantic seaboard territory by not over 25 per cent. As a result of the decision just referred to the Interstate Commerce Commission on July 31, 1911, promulgated their fourth section Order No. 124, denying transcontinental carriers, effective November 15, 1911, further relief from the provisions of the fourth section of the act to regulate commerce than as provided in their decisions of June 22, 1911, just referred to.

Appeal was taken by the carrier to the Commerce Court from the decision of the commission of June 22, 1911, and on November 9, 1911, that court set aside the order of the commission. Upon appeal to the Supreme Court of the United States a decision reversing the decision of the Commerce Court was announced on June 22, 1914.

In July, 1914, these carriers filed with the Interstate Commerce Commission a petition asking that the effective date of their fourth section Order No. 124 be extended until October 1, 1914, in order to

enable carriers to publish, file, and make effective rates to conform with the requirements of the order, except on certain commodities that were subject to greater competition by the sea, and that as to the rates on these commodities the effective date of the order be extended until January 1, 1915.

Finally, on November 15, 1914, and on July 15, 1915, or more than four years after the fourth section of the act was amended, rates were published in conformity with the commission's order of June 22, 1911, and as amended.

On September 9, 1916, the Merchants' Association of Spokane, Wash., filed a petition alleging that there was not at that time, and had not been since April 5, 1916, any water competition between the Atlantic and the Pacific coasts of the United States, and that there existed no justification for the maintenance of lower rates from eastern defined territories to the Pacific coast than to intermediate points. The petition requested the commission to reopen the fourth section applications relating to rates from eastern defined territories to the Pacific coast and intermediate points, and after hearing and investigation to make such new or amended order relating to these rates as the conditions shown might justify.

As a result of this petition the commission on June 30, 1917, found that rates on commodities from eastern defined territories to Pacific coast terminals lower than the rates on like traffic to intermediate points were not justified under existing circumstances and denied, effective October 15, 1917, the application of the carriers for authority to maintain rates to Pacific coast ports lower than the rates contemporaneously in effect to intermediate points.

On August 9, 1917, section 15 of the act to regulate commerce was amended, providing that until January 1, 1920, no increased rate, fare, charge, or classification shall be filed, except after approval thereof has been secured from the commission. Such approval may, in the discretion of the commission, be given without formal hearing, and such case shall not affect any subsequent proceeding relative to such rate, fare, charge, or classification.

Transcontinental carriers, in compliance with the commission's fourth section order of June 30, 1917, submitted a revised schedule of rates on commodities from eastern defined territories to Pacific coast and intermediate points which involved some increases in the present rates and which, by recent amendment to section 15 of the act to regulate commerce, can not be filed until approval thereof by the commission; therefore that body on September 28, 1917, postponed until further order the effective date of its fourth section order of June 30, 1917, which, as previously stated, denied the application of the transcontinental carriers to maintain lower rates to Pacific coast ports than to intermediate points. The application of the transcontinental carriers for authority to publish increased rates just referred to is to be heard at New York, Chicago, and Portland this month; consequently the removal of the discrimination at the intermediate points will undoubtedly be several months longer delayed.

The people of the intermountain territory have during the past seven or eight years expended many thousands of dollars in protesting against these discriminatory and unlawful conditions, and

the foregoing will give you an idea of the manner by which justice has been delayed.

Right there I desire to say that I was very much interested in Mr. Adamson's comment of yesterday or the day before as to the need for a community keeping up a fight, and, having had a number of years' experience in that, I want to say, gentlemen, that that is a thing that wears on the public. It becomes tiresome and men are finally inclined to give up. The organization I represent, while it is still a shippers' organization, and it may be considered that they have a purely selfish motive in spending their money to bring about better conditions for their own business—yet the fact remains that the people of the State of Utah or of the entire intermountain country have whatever benefit has come from the efforts of the people of Utah and Spokane and of Reno and of Phoenix and the different organizations that have fought these things out. The general people have received the benefits.

Now, as to the reasons for a higher charge at the intermediate points than at the terminal. I have heard this question argued many times by railroad men and others interested in it, and the reason given is always the same. In short, it is that the revenue derived from Pacific coast terminal rates is not sufficient; the rates are not fully compensatory. They should be higher, and they would be higher if it were not for the sea. That same argument is offered as a reason, finally, for the existence of every rate, regardless of what it is. If you look through the transcontinental tariffs you will find, for example, a rate of \$4.50 a hundred from New York to Pacific coast terminals on a given commodity. The rate on the same commodity from Salt Lake City or Ogden, a point 800 miles inland, is \$5.63. You follow down through the tariff, taking up these different rates, and you come on down and find a rate of a dollar, for example. The rate on that same commodity to a point 800 miles inland is \$1.25. You come down to the matter of bar iron, for example, and the rate to the Pacific coast terminal is 65 cents. Now, in that range of rates between \$4.50 a hundred and 65 cents a hundred, where is there a compensatory rate, or what is it?

Nobody has ever attempted to show, and as far as I know the Interstate Commerce Commission itself has never given any analysis or made any investigation to ascertain what the cost of handling this traffic is. The only figure that I have ever seen, or anybody else has ever seen, to my knowledge, is one presented by the Southern Pacific Co., I think, in its application for relief from the provisions of the fourth section eastbound in connection with the rates on barley, beans, canned goods, etc., where they show that the so-called out-of-pocket cost, which covers terminal cost and everything but the interest on bonds and dividends and stocks, was 8 cents per car-mile. As I said, we have never known of the commission or any commercial body attempting to prove or disprove that statement or to find out what the cost is, and we are very much interested and willing that the carriers should earn and have reasonable returns on their investments. We would like to know something about it. We think these rates should not be established merely upon guesswork or on the adjustment of some individual whose opinion may not be any more valuable than our own.



Of course, under the law and the decisions of the Supreme Court every rate a carrier makes must at least cover the out-of-pocket cost; otherwise they violate the law and impose undue burdens on some of the other traffic to make up that loss.

In the case of the United States of America, the Interstate Commerce Commission, and others versus the Santa Fe Railway and others, Nos. 136 and 162, U. S., 6, October term, 1913, the Supreme Court says:

We observe, moreover, that in addition it came to be settled that where competitive conditions authorized carriers to lower their rates to a particular place the right to meet the competition by lowering rates to such place was not confined to shipments from the point of origin of the competition, but empowered all carriers in the interest of freedom of commerce and to afford enlarged opportunity to shippers to accept, if they chose to do so, shipments to such competitive points at lower rates than their general tariff rates; a right which came aptly to be described as "market competition" (because the practice served to enlarge markets and develop the freedom of traffic and intercourse.) It is to be observed, however, that the right thus conceded was not absolute, because its exercise was only permitted provided the rates were not so lowered as to be nonremunerative and thereby cast an unnecessary burden upon other shippers.

It is our belief, based largely upon the testimony we have heard from the carriers and the claims they have made, that one of two things is absolutely and unquestionably true, either the present transcontinental terminal rate is a reasonable rate and a compensatory rate and all that should be charged for the service to be performed, or else it is too low and is placing a burden upon the traffic of the interior. So far as I know, the Interstate Commerce Commission has never made or ordered into effect any rates anywhere nearly as radical as the carriers themselves have voluntarily made.

I referred some time ago to the range of rates to the Pacific coast. If a rate of 65 cents on bar iron from Chicago to the Pacific coast pays the out-of-pocket cost and some profit, it seems to us that that same rate of 65 cents applied 800 miles inland, where the carrier is relieved from one of the most difficult hauls in the United States—and I say that advisedly, because I have heard their own operating officers testify as to the difficulties of operating conditions, the heavy grades, miles of snowsheds, snow-cleaning apparatus with fires kept constantly going all the time, with lookouts on the mountains with powerful telescopes watching the snowsheds—we contend where they are relieved of an 800-mile haul over a line of that kind, and are paid that same rate, which we are willing to pay, they are getting money enough.

In connection with the 65-cent rate I would like to call attention to the fact that at the time the canal opened the carriers voluntarily put in a 55-cent rate, and they wanted to carry that rate back to Pittsburgh and at the same time maintain this higher scale at the intermediate points.

Taking the 65-cent rate on bar iron, that rate from Chicago to San Francisco or any Pacific coast terminal produces a per ton-mile earning of 5.76 mills. If it were applied at Utah common points it would produce per ton-mile earnings of 8.65 mills, or 50 per cent more revenue than it produced out of the Pacific coast terminal earnings. If the 65-cent rates represents all of the out-of-pocket cost and some profit, it really seems that a rate 50 per cent higher should provide for dividends, etc., and should be fully compensatory, but the

carriers are not satisfied with that. They say to the shipper of Utah, or the consumer in Utah: "Your rate on this commodity is 82 cents. You must pay per ton-mile earnings of 10.84 mills, or, in other words, for 10,000 ton-miles transportation you pay \$108.40, yet we will sell the same thing to the Pacific coast dealer for \$57.60."

Now, to go a little further in our effort to find what is or would be a compensatory rate, in the hearing at, I think, Spokane, in December last or January last, the fact was developed that the carriers had voluntarily published a rate on iron and steel articles for export from Chicago to north Pacific coast terminals of 40 cents per hundred-weight. That was not a commission-made rate, but they made it themselves in order to handle that business between Chicago and the Pacific coast.

Mr. McCRAE. It was 30 cents.

Mr. McCARTHY. No; I understood there was a 30-cent rate from Cleveland to the Pacific coast. This rate I am speaking of is the Chicago rate.

It may be argued, as I have some time heard it, that that is done in the interest of the industries of this country. Possibly that is true, but there are outlets from the United States on the Atlantic seaboard, and that tonnage could move at a lower rate through the Atlantic seaboard. This rate takes the tonnage from the line leading east from Chicago to the seaboard.

This rate of 40 cents from Chicago to the Pacific coast terminals produces ton-mile earnings of 3.54 mills as against the domestic rate of 5.76 and the interior rate of 10.84 mills. Going a little further—

Mr. ESCH. You mean ten and eighty-four hundredths mills?

Mr. McCARTHY. Yes, sir. Going a little further in that direction we find a rate of \$4.50 per gross ton, or practically 20 cents a hundred from Chicago to the north Pacific coast, and that produces 1.77 mills per ton-mile.

In all this range of rates, from 10 to 8.65, 5.76, 3.54, to 1.77, where is the compensatory rate and how far should the carriers be permitted to go without some one stepping in and saying they are imposing an unnecessary burden on the people of the interior? The impression may prevail that the tonnage of the Pacific coast is very much greater than that of the interior country. I think the commission itself was surprised to find, in a hearing not very long ago, that, as I recall it, the relation was about as 5 to 3 in favor of the interior country, it having the greater tonnage.

When you consider this 65-cent rate from Chicago to the Pacific coast terminals and an 82-cent rate from Chicago to Utah in connection with the fact that the rate on bar iron from San Francisco to Utah, eastbound, is 62 cents per hundred, only 3 cents a hundred less than from Pittsburgh to San Francisco, and that scale of rates is being defended by the carriers as being at least not unreasonably high, you can not escape the conviction that there must be money in dropping the westbound tonnage at the Utah common points, if the haul west of that point is worth 62 cents a hundred, and it must be worth that or the railroads would not put it in.

Another thing that has a strong appeal on this subject is the fact that every railroad from the Atlantic seaboard to Utah common

points enjoys its maximum haul and it does not make any difference whether the tonnage is going to Reno or San Francisco or Hong-kong, it travels just as far over their rails as it can travel when it is delivered at the Utah common points. It is then turned over to another railroad to complete the transportation if it moves west of there.

As to this matter of earnings on transcontinental traffic and their inadequacy, in the hearing of Salt Lake City, in case 2662, the first case brought by the people of Utah, an official of the Southern Pacific Co., in response to questions by Judge Bartine, made the statement, as I remember it—and I have no desire to misquote him, and if I am not correct I should like to be corrected—but as I remember the statement, it was to the effect that of the traffic on the Central Pacific Railroad, the line west of Ogden, a portion of the local traffic was carried at an actual loss of money. The remainder of that traffic was mainly transcontinental terminal traffic which was handled at little or no profit, yet, when you come to analyze the earnings of the Central Pacific Railroad, you learn something that is rather astonishing. There is no doubt in anybody's mind about the wealth of the State of Nevada, but it does not happen to produce the tonnage that some of the States do, and you gentlemen who have traveled throughout this country, have gone across the States of Illinois, Iowa, Wisconsin, down through Missouri, and between Chicago and Kansas City, for example, or between Chicago and Omaha, and if you do not already know this, I think you will be surprised: You will find that the earnings of that Central Pacific Railroad in the last year for which the figures for that line were available, were \$10,296.44 net per mile of railroad. This is, \$641.04 more per mile of railroad than the combined earnings of four lines between Omaha and Chicago, the Chicago, Burlington & Quincy, the Chicago & North Western, the Chicago, Milwaukee & St. Paul, and the Chicago, Rock Island & Pacific, and how, in the face of earnings of that kind, anybody can claim for one instant that the transcontinental terminal rates are not compensatory rates, I, for one, can not understand.

Senator CUMMINS. Did you use the term "net" earnings?

Mr. McCARTHY. Net per mile of railroad.

Senator CUMMINS. After deducting what—cost of operation and maintenance simply?

Mr. McCARTHY. That is my understanding of it; yes, sir. In that connection I will say that an exhibit covering that is in the records of the Interstate Commerce Commission.

Mr. SIMS. Can you not refer to that matter definitely?

Mr. McCARTHY. I will do that definitely, and I would like to say further, Mr. Sims, that there are certain exhibits to which I shall refer here that I should like to file with this committee, because I believe they will give you a great deal of information which you are seeking.

The CHAIRMAN. Are they very bulky?

Mr. McCARTHY. I do not have them with me.

The CHAIRMAN. I say, are they very bulky?

Mr. McCARTHY. Not particularly so.

The CHAIRMAN. Have you any idea how many pages they cover?



Mr. McCARTHY. Some are rather bulky, but on any one page of the exhibit it would not be necessary to examine any more than two or three items to give the information you want. They were prepared in cases for use before the Interstate Commerce Commission and show information in detail as to each commodity.

The CHAIRMAN. Could you cull out the portions which you want?

Mr. McCARTHY. I have not the exhibits with me.

The CHAIRMAN. You can do that in the future and send them to the clerk, can you not?

Mr. McCARTHY. Yes, sir; I misunderstood you. For example, one of these exhibits—and I will state briefly what they are for your information—is a statement showing the carload rates on a large number of commodities from New York City, Pittsburgh, and other eastern points, to the destinations shown; it also shows the proportion of the transcontinental rates accruing to the lines east and west of the Utah common points. It shows how much more revenue the carriers up to the Utah common points would earn if they were to drop the shipments at Utah and charge the rate to the Pacific coast, instead of charging us the higher rate, as they are continuing to do. Another exhibit is one filed by C. J. McDonald, assistant superintendent of transportation of the Southern Pacific, explaining the operating difficulties on the Southern Pacific line between Ogden and San Francisco. There is also an exhibit showing the out-of-pocket cost, a statement—

Mr. SIMS. Suppose the witness be permitted to put in the hearings such portions of these exhibits as he deems pertinent to this controversy, without putting in all of them?

The CHAIRMAN. There is no objection to that. Mr. McCarthy, if you will send such portions to the clerk as you think applicable to this hearing, they will be inserted.

TRAFFIC SERVICE BUREAU OF UTAH,  
Salt Lake City, Utah, December 2, 1917.

HON. FRANCIS G. NEWLANDS,

*United States Senate, Washington, D. C.*

DEAR SIR: In addition to those forwarded to the clerk of your committee, I am sending you a set of exhibits which I requested leave to file when testifying in San Francisco early in November.

Each of these exhibits has been in evidence before the Interstate Commerce Commission in connection with cases affecting intermountain rates.

No. 1 is a statement furnished by the Southern Pacific Co., showing in cents per car-mile the so-called out-of-pocket cost for the movement of traffic over their line.

No. 2 is an extract from the testimony of Mr. N. T. Porter and is submitted in support of my statement at the San Francisco hearing with reference to the attitude of carriers toward development of the intermountain territory in general and the marble industry in particular.

No. 3, abstract from testimony of Mr. C. J. McDonald, docket S260, offered to show the extremely difficult operating conditions of the line Ogden to Sacramento, and in proof of our contention that even though it were admitted that any rate between the terminals paid only out-of-pocket costs, it yet would yield a very liberal return on traffic stopped at any point east of the Sierra Mountains.

No. 4, extract from the testimony of Mr. G. W. Luce, freight traffic manager of the Southern Pacific Co., docket 2662, proves that if, as claimed, transcontinental terminal traffic is handled at cost an undue burden is laid upon the traffic of other communities. That claim, however, is not borne out by the figures set forth in No. 7, which show that the net earnings per mile of road of the Central Pacific Co. for the period shown exceeded by \$641 the combined earnings of four of the great railroads of the United States operating west of Chicago.

Exhibit No. 5, key to which appears on page next to front cover, shows in cents per hundred pounds the proportion of rates to Pacific coast terminals carried in line "A" accruing to lines east and west of Ogden, Utah. Line "G" indicates rates applicable at Utah common points, except when rates shown in line "C" applying at intermediate points between Utah and Pacific coast are lower.

Exhibit No. 8 covers list of what are commonly known as Schedule "C" commodities, upon which it is claimed by carriers the effect of water competition is most keenly felt. In this statement are shown the earnings in dollars per minimum car at rates shown in line "B" and division of those earnings east of Ogden, Utah, as shown in line "D" and west of that point as per line "E."

Reference to one item will serve to clearly illustrate the Utah and Pacific coast rate adjustments. Exhibit No. 5, page 14, item bolts, from group D (Chicago), line "G," to Utah 84 cents per hundredweight. Same item, page 1, exhibit No. 8, group D (Chicago), shows that an 80,000-pound car of bolts moving Chicago to Ogden earns \$672, while a similar car destined San Francisco would pay the lines up to Ogden \$329.12. Applying the figure shown in exhibit No. 1 to the movement of this car Chicago to Ogden, 1,500 miles, we find the out-of-pocket cost \$135.60, so that if the so-called water compelled unremunerative rate to the Pacific coast terminals were applied at Ogden carriers up to that point would yet have \$193.52 above their out-of-pocket cost, instead of \$536.40, which the rate at present in effect to Utah produces.

Exhibit No. 6 shows rates on what are commonly known as Schedule "B" commodities, which it is claimed are not so highly susceptible to water competition and the earnings east and west of Ogden at the rates shown in line "A."

Respectfully submitted.

W. S. MCCARTHY.

(The exhibits referred to are not printed, but are on file with the clerk of the committee.)

Senator CUMMINS. Is there anything in the exhibits that will show the proportion of earnings of the Central Pacific derived from terminal traffic and the proportion derived from local traffic?

Mr. MCCARTHY. No; these exhibits apply simply to the through rate. I think, however, that those figures—in fact, I know—have been submitted to the Interstate Commerce Commission by the Nevada Commission, and I believe, Senator, that you can elicit that information from Judge Bartine. I think he has that information.

As to the effect of this rate adjustment upon a community, if a manufacturer, we will say, of steel, desired to locate in the State of Utah, or a manufacturer of any commodity, we will say that he would require 4,000 tons of steel to erect his plant; the transportation charge on this steel from Pittsburgh to Salt Lake City would be \$80,000; whereas if the same building were to be erected in San Francisco, the transportation charge from Pittsburgh would be \$60,000, or \$20,000 less, notwithstanding that the traffic could move to San Francisco through Salt Lake City from Pittsburgh, an additional distance of approximately 800 miles over the Sierra Nevada Range of mountains, where operating conditions of railroads are well known to be extremely difficult. The proportion of the transportation charge of the \$60,000 on the steel destined to San Francisco that would accrue to the railroads operating west of Salt Lake City would amount to \$20,536; or, in other words, if the rate in effect to San Francisco from Pittsburgh was applied at Salt Lake City, the revenue of the carriers operating between Chicago and Salt Lake City would be \$20,536 in excess of the earnings the same carriers would receive if the traffic moved through to San Francisco; or if this steel should originate at Chicago, the transportation charge from that point to San Francisco would be \$52,000, compared with

a transportation charge of \$65,000 if the traffic was destined to Salt Lake City.

If this steel were purchased from the Colorado Fuel & Iron Co. for shipment from Minnequa, Colo., the transportation charge to San Francisco would be \$40,000, compared with a charge of \$60,000 if the traffic was destined to any point on the main line of the Southern Pacific or Western Pacific railroads in Nevada.

Surely Congress did not have in mind any such discriminative freight-rate adjustments as those that I have just mentioned when they amended the fourth section of the act in 1910.

MR. SIMS. What point in Colorado is that?

MR. McCARTHY. It is Pueblo, practically. Minnequa is the name. There is a small steel-manufacturing plant in Utah, recently established, and until a year ago the rate—this matter was brought up at a hearing and stated and restated until the carriers finally made a readjustment of the rates—the rate on steel from Pittsburgh at that time to the Pacific coast was 65 cents, from Chicago to the Pacific coast it was 55 cents, and from Pueblo, Colo., to the Pacific coast it was 40 cents; from Midvale, Utah, which is a suburb of Salt Lake City, to the Pacific coast it was 65 cents. When that was finally adjusted, Midvale was accorded the same rate as Pueblo, 600 miles east of it. They are the same to-day, I understand. They are no higher to the Pacific coast.

Another feature of this matter that I would like to call to your attention is the fact that eastbound there is no violation of the fourth section. As I understand it, all the ships that move from New York to the Pacific coast go back. They do not go out of the business when they get there. They go back to the Atlantic seaboard, and there should be the same competition in one direction as in the other; and if it is water competition that has the effect of raising this lump at a point 800 miles inland in the rate structure, why should it not raise it as well eastbound as westbound? But it does not, and it never has, until on certain eastbound rates when you start east—I heard of a case of that kind brought to my attention some time ago. It was a small matter, but it shows what the interior country is up against in the matter of freight rates. The concern with which I am personally connected—and I will say for your information that I earn my living in the hardware business—some time ago, in March, 1917, when this occurred, made a shipment of 310 pounds of leather for use in the manufacture of some goods which we were having made in Omaha, from Salt Lake City to Omaha. Now, the rate of leather from the Pacific coast to all points east is \$1.15 per hundred, and that rate, as you go east, applies at Reno, Winnemucca, and Elcom, and all intermediate points, until you strike the limits of Salt Lake City. Just outside of the limits of Salt Lake City, and practically in it, is a place called Buena Vista, and this rate of \$1.15 applies from Buena Vista to—

THE CHAIRMAN. To what point east?

MR. McCARTHY. To the Atlantic seaboard—all points east. The rates are blanketed. When the consignee in Omaha paid the charges on this shipment and sent the bill back to us I noticed a rate that I thought was a little bit too high, and I had it checked. The shipment was charged at the rate of \$2 a hundred from Salt Lake City,



and within 10 minute's ride in an automobile west of us, toward the Pacific coast, the rate is \$1.15. So I had a claim made on that, using a rate of 8 cents westbound from Salt Lake City to Buena Vista, and then adding the \$1.15 rate which applies from Buena Vista to New York or Buffalo or Chicago or Omaha—to all points east—making a rate of \$1.23. I was willing to pay them 8 cents for a service they did not perform. I have a letter addressed to our house, dated June 20, 1917:

Your claim No. 4807; ours and short-line claim No. 777-190-12.

SALT LAKE CITY HARDWARE CO.

GENTLEMEN: Returning freight bill; wish to advise that this matter was referred to Mr. Reeves, our general freight agent, and we are now in receipt of advice that the Lago combination—

That is another point farther west of Buena Vista from which the same rate applies—

we are now in receipt of advice that the Lago combination can not be applied on the shipment in question.

Claim is respectfully declined.

That is typical. Our experience in Utah has long since brought us to the conclusion that the only remedy for this very discriminatory and unjust situation is an amendment to the long-and-short-haul clause, making it absolute.

The reasons advanced are the same old ones. They are the ones that have been always advanced, and in looking over some of these things, I found in the testimony taken by the Interstate Commerce Commission as far back as 1902, in the case of Business Men's League of St. Louis versus Atchison, Topeka & Santa Fe Railway (9 I. C. C., 318), a discussion occurred between W. F. Herrin, chief counsel of the Southern Pacific Co. and Paul Morton, then vice president in charge of traffic of the Santa Fe Railway, a portion of which I shall read:

MR. HERRIN. Why don't you treat the San Bernardino man as well as you treat the Los Angeles man?

MR. MORTON. There are several reasons. The Los Angeles man is a little nearer the sea, and the question of market competition does not come in.

MR. HERRIN. That is you do not treat him as well because you are not obliged to?

Remember, this is the railroad counsel propounding these questions.

MR. MORTON. That is probably the chief reason—or because we can not afford to, I will say. There is not any first-class reason except the one that we can not afford to.

MR. HERRIN. You justify giving the Chicago points the same rate as the Atlantic coast, largely on the theory of building up Chicago and building up the Middle West?

MR. MORTON. Yes; in the sense of equity.

MR. HERRIN. Well, why should you not build up your Pacific Coast intermediates in the same way?

MR. MORTON. I am not sure that we won't have to do that some day.

MR. HERRIN. Is there no reason why you should discriminate in favor of a town nearer Chicago, like San Bernardino?

MR. MORTON. There is a difference of market competition.

MR. HERRIN. That is the only reason?

MR. MORTON. That is a reason.

In 1911 the commission, in the case of City of Spokane versus Northern Pacific Railway Co. (21 I. C. C. 424), had this to say in regard to the development of the intermountain territory:

To a disinterested observer it would seem to be in the true interest of these transcontinental lines, which begin at the Missouri River, to make rates which would build up interior points as against the coast. The haul of these points is shorter and less expensive. The distribution from these points is easier, but, above all, the traffic which is created at such a point belongs to the rail line which creates it, while the traffic which is fostered upon the coast is the prey of every vessel which sails the sea. Carriers in the future will doubtless adopt this method and will voluntarily make rates to interior points like Spokane which will enable those localities to compete with coast cities.

But they have not done it.

As to the attitude of the Pacific coast, the questions asked yesterday brought to mind a hearing held here in San Francisco on this very matter just about a year ago.

A representative of the San Francisco Chamber of Commerce was on the witness stand and defending the present method of making rates, and, as I recall the testimony, he was asked if he regarded the present plan as fair, equitable, just, and reasonable, charging a higher rate at a point 800 miles inland than was charged at the coast, and he said he did. He thought it was proper entirely and worked no injustice to anyone. Inquiry was made concerning the manufacturing industry of the Pacific coast, and he gave information as to the volume of it. There is a large amount of it done here, but when he was asked if, in view of the fact that that method of rate making is correct in principle—in view of the fact he admitted it was equitable and fair and just—he was asked if he would be willing to have that same method of rate making apply eastbound so that the marketing of Pacific coast goods might be handicapped in that immense consuming territory, we will say, in the vicinity of Buffalo and Chicago, and he said, no, that would not do; the Pacific coast did not want that, notwithstanding they claim it is equitable and just when applied to some one else, and in all these hearings, wherever they have been held—the Pacific coast has, and I do not criticize them for it; it is their right, and I do not know but that they would be open to criticism if they did not defend their interests—but they are always there doing it, and we of the intermountain country feel that we have too long helped pay the freight bills of the Pacific coast, and we think we are entitled to relief.

Another matter that is probably of not much importance, but I would like to touch upon, is the fact that, so far as Salt Lake City, at least, is concerned, it was a jobbing city before any city that is interested in this hearing or is taking a part in it, except, possibly, San Francisco, was in existence, and has had a larger jobbing territory in the old days than to-day. Its territory covers a radius of about 200 miles to-day.

In case 2662, to which reference was made, we were given a decision by the Interstate Commerce Commission which resulted in great benefit to the people. At the expiration of the two-year period covered by the decision the carriers came in and filed a tariff covering marked advanced in rates. They did not claim that the rates ordered in by the Interstate Commerce were not reasonable rates. They did not claim that they were unreasonably low; they could not

very well, because the Interstate Commerce Commission in deciding that case on the testimony and evidence before it, it seems to us now, was so convinced that they considered some drastic action was necessary, but they wanted to be sure of the effect of it before taking action, and so they had a large force of men investigating the revenues of the carriers and applying the rates which they intended to order into effect to the tonnage of the past to ascertain just what the effect of that decision would be when put in. So it could hardly be claimed that the Interstate Commerce Commission had persecuted the railroads. They were fair to them, although they did make some marked reductions in the rate.

At the end of the two-year period the carriers came in with a tariff making marked advances. Protest was made, and a hearing was held by the Interstate Commerce Commission in I. and S. case 411. The sole basis of their contention at that time was that the rates to Utah were too low because they did not give Denver, 400 miles east, sufficient territory. A change was desired, and an increase of rates to Utah was desired, in order to bring about a more harmonious adjustment of rates, and the commission permitted some marked advances to be made over the rates ordered into effect two years prior to that time. So far as Denver was concerned, this may have resulted in a more harmonious relation, but the effect on Utah was that while they were trying to move Utah further away from Denver, to give Denver more territory, they moved Salt Lake City over into Reno and Spokane, and 90 per cent of our rates to-day are Spokane rates, and decisions of that kind are rather discouraging, and they constitute one more of the long line of reasons which lead us to believe that we will only get relief at the hands of Congress.

I wish to thank you gentlemen for your attention. I do not think I have anything more to say in reference to this matter.

Mr. SIMS. I want to ask the gentleman just one or two questions. I understood you to say that the San Francisco people had a right to make the contention that they do make in the interest of their own business. Did I understand you to say that?

Mr. MCCARTHY. I used that language, I think.

Mr. SIMS. Do you think any community or city or State has a right to insist on unjust discrimination simply because it may benefit them?

Mr. MCCARTHY. No, sir.

Mr. SIMS. It is not a right?

Mr. MCCARTHY. No, sir; that has not been the attitude of our people. We feel that every community has a right, as we have. We contend for ours, but we do not ask for any advantage over any community or any individual or any line of business.

Mr. SIMS. But you do insist that the present arrangement constitutes a discrimination as against your city?

Mr. MCCARTHY. Yes, sir; we certainly do.

Mr. SIMS. And you think no other city should have a right to take advantage of an opportunity such as this if it is not founded in justice?

Mr. MCCARTHY. No, sir; I do not wish to be understood that way at all.

Mr. SIMS. I did not think so, but I thought you used language which might convey that impression, and I wanted to clear it up.



Senator CUMMINS. Did you say that the eastbound rates are level from the Pacific coast?

Mr. McCARTHY. To the Atlantic seaboard; yes, sir.

Senator CUMMINS. You do not mean that the rate from San Francisco to New York is the same as from Chicago to New York?

Mr. McCARTHY. No, sir; I mean that the transcontinental rates eastbound are blanketed across the country, generally speaking. What I mean is no such condition exists in the East with reference to eastbound rates as exists in the West in connection with westbound rates.

Senator CUMMINS. You mean there are no higher charges for the shorter hauls than for the longer hauls in the same direction over the same line?

Mr. McCARTHY. Yes, sir.

Senator CUMMINS. How large a part of the freight which is destined for the western coast originates on the eastern seaboard?

Mr. McCARTHY. Senator, I could not answer that question. I have no information on which I would hazard a guess.

Senator CUMMINS. There is a very large part of it, certainly, that originates at some points west of the Atlantic seaboard?

Mr. McCARTHY. Oh, my; yes, sir. I know of a line of merchandise business and the location of manufacturing concerns making the line of goods handled by the concern with which I am connected—I know there is an enormous volume of goods manufactured long distances west of the Atlantic seaboard outside of the influence of water competition.

Senator CUMMINS. Let us take Chicago as a point at which to begin. There is a great deal of freight coming to the Pacific coast that originates in the territory that takes Chicago rates, is there not?

Mr. McCARTHY. Yes, sir.

Senator CUMMINS. In order that that business shall be affected by water competition, what rates must be considered; that is to say, how would a Chicago shipper avail himself of water competition to the western coast?

Mr. McCARTHY. I have been told that at the time the canal was in operation, at the time there were ships to operate through the canal, that a certain amount of tonnage moved from Chicago east to New York and was there transshipped and came around by boat.

Senator CUMMINS. Any shippers from that territory would be compelled either to ship their goods east to the seaboard or south to the seaboard—

Mr. McCARTHY. Yes, sir.

Senator CUMMINS. (continuing). In order to get any water transportation. Has there ever been a time when the rail rate, either to the Atlantic seaboard or to the south seaboard, plus the ship rate from whatever harbor might be reached, to reach the western coast, has been as low as the rail rate from Chicago to San Francisco?

Mr. McCARTHY. Of my own knowledge I do not know. I have been told that there were very low rates made, and yet in the hearing of the Spokane case I think a statement was filed as an exhibit, as I remember, by Mr. Jones, of Arizona, showing that the transcontinental rates during the period of most active competition via the canal—the transcontinental rail rates—were higher than they were 10 years ago before the opening of the canal.

Senator CUMMINS. I am asking purely for information, because I do not know.

Mr. McCARTHY. I understand and will endeavor to so answer the question.

Senator CUMMINS. I think it is of interest to know whether there could be a rail rate from the Chicago district to the seaboard and a water rate from the seaboard to the western coast lower than the all-rail rate from Chicago to the West.

Mr. McCARTHY. Your question is, Could there be?

Senator CUMMINS. As to whether there has been.

Mr. McCARTHY. I do not know, but in consideration of that I am at a loss to know practically, when I look at these rates that are made on iron and steel articles, a rate that produces as little as 1.77 mills per ton-mile voluntarily made by the railroads—whether they do it to get the business—it sometimes makes one wonder if there is any limit to their operating cost.

The CHAIRMAN. What do you regard as the normal cost?

Mr. McCARTHY. Well, I can not see how anything higher or anything—I do not see how the railroads can claim, in view of what they themselves do, that a rate for a haul across the country that pays them one-half a cent a ton per mile is an unremunerative rate. We have always been told that one-half cent a ton a mile represented the cost of operation. I am skeptical of that.

The CHAIRMAN. What is the rate you refer to on iron and steel?

Mr. McCARTHY. 1.77 mills.

The CHAIRMAN. What proportion of a half cent a mile is that?

Mr. McCARTHY. It is less than 50 per cent—40 per cent.

Senator CUMMINS. I am following a different line. I am not speaking of a compensatory rate, but I want to find out what the comparative rates are. Freight shipped from Chicago to San Francisco by water, part rail and part water, must travel anywhere from 1,000 to 1,500 miles on a railroad. That is true, is it not?

Mr. McCARTHY. Yes, sir.

Senator CUMMINS. Do you know what the present rate on, for instance, bar iron is from Chicago to New York?

Mr. McCARTHY. No; I am not familiar with the eastbound rates, Senator, but I should say, Senator, that it would be in the neighborhood of at least 30 cents.

Senator CUMMINS. Or from Chicago to New Orleans, Galveston, or Mobile?

Mr. McCARTHY. I am not familiar with the southbound rates at all.

Senator CUMMINS. I ask you the same question with regard to the Pittsburgh district. Have you ever known of any considerable shipments being made from that district to tidewater, and then by boat to the western coast?

Mr. McCARTHY. I do not know of any that I have heard of. I have understood that there was a considerable volume of tonnage that moved that way.

Senator CUMMINS. What is the distance from Chicago to San Francisco—about the distance?

Mr. McCARTHY. Chicago is about 2,300 miles in round numbers.

Senator CUMMINS. In your hearings before the Interstate Commerce Commission, has it ever been claimed that any considerable

part of the westbound freight reaching the Pacific coast would have gone by water if the rates which have been in force had been raised?

Mr. McCARTHY. Yes; that claim has been made persistently and continuously.

Senator CUMMINS. Then there must have been an inquiry about what part of the country—what territory in the United States—could have availed itself of water transportation. I would like some information upon that point.

Mr. McCARTHY. Well, I do not know of any such inquiry ever having been made, Senator. It has never come to my notice if an inquiry of that kind was made.

Senator CUMMINS. You have conceded, then, that a large part of the eastbound traffic from the Pacific coast is distributed or consumed or used in the inland territory and it is not used on the Atlantic coast?

Mr. McCARTHY. No, sir.

Senator CUMMINS. And there has been the same necessity for low rates on eastbound traffic as there has been on westbound traffic, has there not?

Mr. McCARTHY. Apparently so; yes, sir.

Senator CUMMINS. And has there ever, at any time, been a rate made for the all-rail business—has the all-rail rate even been reduced in order to meet the supposed competition of the water route?

Mr. McCARTHY. I do not know that I exactly understand the question, Senator.

Senator CUMMINS. Take a shipment from San Francisco to Pittsburgh: Has that rate ever been made by the railways to prevent the same shipment from going by water from San Francisco to New York and then by rail to Pittsburgh?

Mr. McCARTHY. I could not answer that. I am not sufficiently familiar with the movements of eastbound traffic from the Pacific coast to give you an answer to that, Senator.

Senator CUMMINS. Now, what is your theory about the principle upon which rates ought to be made?

Mr. McCARTHY. Senator, I should certainly hesitate, in the presence of this distinguished company and in the presence of so many gentlemen of ability in the matter of rate making, to express an opinion on that.

Senator CUMMINS. Well, primarily, would you adopt the cost-of-service principle?

Mr. McCARTHY. I do not know that I would; but I do feel, in consideration of a matter of this kind, the cost of service should be inquired into, and before a decision is rendered that would possibly effect a discrimination—

Senator CUMMINS. What is discrimination?

Mr. McCARTHY. It is giving one community an advantage over another.

Senator CUMMINS. That involves an inquiry into what the advantage of each community is, and what rates it is justly entitled to; and somewhere along the line you have to reach a conclusion as to the basis upon which rates should be made in order to find out whether one community is discriminated against in favor of another.

Mr. McCARTHY. I agree with you perfectly; and I think I made some reference to that in my opening statement.



Senator CUMMINS. Yes; you did.

Mr. McCARTHY. I feel as you do about it—that there should be some basis.

Senator CUMMINS. Now, when a railroad undertakes to make a rate to Salt Lake City from New York or from Pittsburgh or from Chicago, and at the same time is engaged in making a rate on the same commodity to Los Angeles or San Francisco, the railroads have got to take into account some principle of justice and fair dealing in making those two rates. Now, what is it?

Mr. McCARTHY. Well, they must, it seems to me, take into consideration—to some extent, at least—the cost of service—what they can handle it for. They must give due consideration to the rights of their stockholders, the payment of interest on their obligations, and things of that kind. While I realize a man can not do that in connection with every rate, every rate he makes, yet the rates must be so adjusted that the revenue from all traffic must take care of those conditions.

Senator CUMMINS. The cost of service, it seems to me, ought to be the initial principle observed, modified, when it comes to distribution of rates among the different kinds of commodities, according to the welfare of the people. That is, so that a commodity may come within the reach of the people who have to use it.

Mr. McCARTHY. I have given that some consideration in this way, Senator: It seems to be conceded, I take it, that it costs no more to transport a car of pig iron between given points than it does a car of tea, we will say, in the same train. Now, we will say that the car of tea is worth \$10,000 a car and the pig iron is worth \$1,000. I do not think this theory of rate making would be acceptable to the railroad men, and I do not know that it should be applied; but it is one of the phases of the case that has occurred to me: Why should the rate on the carload of tea exceed the rate on the carload of pig iron to any greater extent than the amount of the premium I would have to pay to the insurance men for insuring the safe delivery of that tea to me at the point of destination?

Senator CUMMINS. Theoretically, I think there is no answer to that suggestion, but the principle I have mentioned is modified at that point in order to give pig iron, which is of more general use and which must be secured at the lowest possible cost, the advantage. I think we all realize on these different kinds of commodities the principle is adjusted in that way; but take two cars of bar iron—and I mentioned that because you used the illustration—one destined to Salt Lake from Pittsburgh and the other destined to Los Angeles—the principle which justifies the discrimination as between kinds of traffic would not apply, would it?

Mr. McCARTHY. No; it would not.

Senator CUMMINS. There is no reason, therefore, in departing in that instance from the rule of the cost of service, is there?

Mr. McCARTHY. None that I can see.

Senator CUMMINS. I think if we hold that firmly in mind we reach a better idea on this subject. Then, unless some other consideration intervenes, the rates from Salt Lake to Los Angeles should be adjusted on the cost of service, each one bearing that burden which is necessary to enable the railroad company to render service and to return a fair reward upon the capital invested or on the value of its

property. Now, there comes in another condition. Let us assume that the railroad company finds that at Los Angeles if it charges the cost of service—and I am now including in that the full compensation to capital—it is not going to get that business; that it will go somewhere else. What, then, is the duty of the railroad company?

Mr. McCARTHY. Well, I think that is clearly pointed out in a Supreme Court decision, Senator. I never did have any particular quarrel with the railroad men who hold that viewpoint; I think that the railroad might be permitted to meet that competition in its own way, but I do not believe, and never have believed—and I am not alone in that opinion—that the railroads should be permitted to go as far afield as they have. I think they have shamefully abused the privilege that they have been given in that respect. I am not denying the correctness of the principle. I think they might be permitted to do so within reasonable bounds.

Senator CUMMINS. I am not altogether persuaded and never have been that the railroad is justified in meeting that competition in a way that will involve any additional burden upon the intermediate points, but I am not sure about it. You say you are willing that the terminal points should have a rate that pays the cost of service less the reward to capital—that is, the out-of-pocket cost.

Mr. McCARTHY. If they elect to handle the business on that basis—

Senator CUMMINS. But, then, when it does that the entire burden of rewarding capital falls upon the intermediate points.

Mr. McCARTHY. That is true; and to that extent they are, you might say, discriminated against; but in the making of rates, Senator, I think everyone will agree with me that all commodities do not bear their full share of the transportation expense. There are commodities, of course, that would not move unless they were moved at a low rate, and it might be that the business of a community would be hampered by the inability to move them. So, certain commodities may be a little less than they should, and others pay a little more to make up the deficit, and the same thing might apply with reference to communities. So far as I have always considered that, we would be satisfied if they would give us the same rate as the Pacific coast. We have not contended for a lower rate.

Senator CUMMINS. Of course, that is in the nature of a compromise. It is one of the things that you would be willing to have brought about because it would better conditions that you are now confronted with. But I am trying to get at the real justice of it, both to the railroads and to the community, and it is so complicated that it is pretty nearly impossible to analyze.

Now, I put it to you this way in order to simplify it: Suppose that a railroad has its rates all properly adjusted, according to fundamental principles, and it is earning enough money. Now, it finds that as to some particular commodity it can secure a large amount of traffic at terminal points if it will reduce its rate to meet the competition, we will say, by water, and it can not get that increased traffic unless it does reduce the rate. Under those circumstances it can take that traffic without imposing great additional burden upon its property, because it is doing, we will say, a business with another

kind of traffic that fairly adjusts it and that it is not discriminating. Do you think, under those circumstances, it is the duty of the railroad company to take the traffic or to refuse it, assuming, always, that there is no out-of-pocket cost, because I take it the Supreme Court has rather settled that?

Mr. McCARTHY. Senator, I will have to answer that in this way: Theoretically, purely, I should say that that would be proper and correct to permit the railroad company to do it, but it does not work out in practice, and for that reason I am of the opinion that I have several times expressed. In theory that is all right, but it does not work out in practice. It does impose an obligation upon the people of the interior country—

Senator CUMMINS. The reason it does not work out in practice may be that this ghost of competition is not a real or substantial factor. That is one of the reasons, is it not?

Mr. McCARTHY. That might be. I have recently had my doubts about that. I am not so sure about that, because I have had experience in the moving of freight by water, and I have figured on that to see if it could be done, but my experience in connection with the movement of freight by water is that it is not satisfactory. I would prefer to pay for the rail service, and I believe most shippers are of the same mind—are willing to pay more to get the rail service.

Senator CUMMINS. Generally speaking, the transcontinental railroads have all they can do, even though the water competition carries all that it can take; is not that true?

Mr. McCARTHY. That is true, as far as I know, and I think it would continue to be true even though there were plenty of ships. All the traffic that goes by ship does not stay on the wharf on which it is unloaded by a long ways. It is moved back into the country. That is why some of these railroads were built in the first place, from tidewater out. Their rates are high and remunerative, or at least should be as compared with other rates, and I do not believe that the railroads of this country would be wrecked, by any means, if they did have to forego some of this transcontinental traffic.

Senator CUMMINS. Has it ever been contended that the cost of service—accepting that as the rule for making rates—is less in shipments to the terminal points than to the intermediate points? In the term “cost of service” I include every expense, direct and incidental, which may fall upon the railroads.

Mr. McCARTHY. I think that is the real basis of their contention. It is long-haul traffic, taken at one end of the line and delivered at another. In all my experience as a traffic man I never have heard a traffic man make the argument that breaking bulk in transit—that is, transporting a shipment between two points and stopping at one point and unloading it and reloading it and turning it over to another carrier—was cheaper than the through transportation.

Senator CUMMINS. There is one point of view which naturally is somewhat obscure in a hearing of this sort, and I want to call it to your attention. You are thinking mainly of the opportunity of the manufacturers and distributors of Utah to do business—to meet competition—and the absolute rate is of less importance to you than a comparative or relative rate, I assume.

Mr. McCARTHY. Not altogether, Senator. While I do not wish to have it appear that we are defending the interests of the general



public, or anything of that kind, we are good enough business men to know if our community does not prosper we can not, and we know it is not a good thing to have the money drained from our community in excessive charges of any kind, whether transportation or any other. In this matter of rates I think that the general public is very largely benefited by an increase in competition. Now, I will illustrate that in this way: Take a community, we will say, that is midway between Salt Lake City and Denver, say 300 miles; we will say that it costs us the same to lay our commodity down. We have an article that we can sell at \$3 a hundred. The freight rate from the midway point to Denver is 25 cents a hundred and the freight rate from Salt Lake City to the midway point, we will say, would be 75 cents a hundred. It is human nature for the Denver jobber to charge \$3.70, because he knows that the best price we can possibly make is \$3.75, so that the consumer does not get the benefit of a competitive condition to which he is entitled. We had that same condition existing with reference to San Francisco and Salt Lake City, and I remember it took a conference of nine days and a threat to take the matter up before the Interstate Commerce Commission to get the rates adjusted. The jobber is only human after all, and he has his faults.

Senator CUMMINS. He has the same faults and only the same faults of all of us. We are all selfish, and properly so. This would be a very stagnant world if there was not a great deal of selfishness in it. But you are mainly interested in adjusting your rates with competing points and not in the absolute rate itself, are you not?

Mr. McCARTHY. That is true, as long as it is a reasonable rate, which we assume that the commission will see that it is, if brought to their attention.

Senator CUMMINS. You have never advocated an increase of the coast rate, have you?

Mr. McCARTHY. No, sir.

Senator CUMMINS. You have always advocated a decrease of the intermediate rate?

Mr. McCARTHY. I would not say that, exactly. Our contention is that the charge to the intermediate points should not be any higher than the charge to the terminal points.

Senator CUMMINS. It would have to mean a decrease in the intermediate rates, because the rates are now higher than the terminal rates.

Mr. McCARTHY. Yes, sir.

Senator CUMMINS. In all your work have you ever attempted to compute what would be the effect on the revenue of the railroads if the intermediate points were reduced to the level of the coast points?

Mr. McCARTHY. That is something that I could not do, Senator, because the figures on which to base a computation of that kind are not available.

Senator CUMMINS. Even if you had the figures, you could hardly reach a satisfactory conclusion, because you would not know how much the traffic of your territory would increase under a lower rate?

Mr. McCARTHY. That is true.

Senator CUMMINS. That is all, Mr. Chairman.

Mr. ESCH. You read, I think, from the testimony given by Herrin and Morton with reference to San Bernardino, Cal., or else you read

it as a part of the statement of the Interstate Commerce Commission in the Spokane case, stating that as to intermediate points the carrier could say, "We created your market, but at the port terminals the commerce is the prey of every ship that sails the sea." Was that the substance of it?

Mr. McCARTHY. Those are two separate quotations.

Mr. ESCH. Do I get the substance of it?

Mr. McCARTHY. One was the testimony of Mr. Morton and the other was taken from the report of the Interstate Commerce Commission in a Nevada case. The quotation concerning the traffic fostered upon the coast being the prey of every vessel which sails the sea is taken from the decision in the City of Spokane versus Northern Pacific Railway, 21 I. C. C. Reports, the opinion being written. I believe, by Commissioner Prouty.

Mr. ESCH. Is it a fact that transcontinental lines say to the intermountain communities, "We created you; if it were not for us you would not have been; you can not live without us, and so we, being your creator, have got some right to determine the rate." Do they assume that attitude?

Mr. McCARTHY. Mr. Esch, as to the community in which I live, they could not say that truthfully, because it was there before they came, and it is a community that has always treated the railroads fairly. I think they have very little to complain about the way we have treated them. I do not think your statement is correct as to Utah.

Mr. ESCH. I ask if that is true?

Mr. McCARTHY. No, sir. I know of a case where industries might have been treated in that way. I have one in mind particularly, in Utah, an industry that should develop into an enormous tonnage producer for a railroad. It is a low-grade commodity and the owners of the property have been trying for a number of years to get rates that will let them into the eastern markets, and they asked for a rate which would favorably compare with the rate on copper bullion. It was denied them. It was not granted. They were told—and this comes to me from an officer of the company; I do not know it of my own knowledge—they were told that the rates they wanted could not be given because it was the intention of the railroad company to keep the competitors east of them on a basis which would let them into the market. A railroad man connected with the matter told me, in the discussion of this effort to obtain a lower rate, certain lines east of the Mississippi River agreed to reduce their rates on this particular commodity by a certain proportion, and the lines west served notice on them if they did that they would raise their proportion to absorb the reduction. That sort of a railroad policy does not develop the country. We have encountered things of that kind.

Mr. ESCH. Is that only a specific instance, or can it be duplicated in the intermountain country?

Mr. McCARTHY. I think probably not as glaring an instance as that, but there are some.

Mr. ESCH. Senator Cummins dwelt on the cost of service in determining rates. Do you think that any other element should be taken into consideration in determining the rates, besides the cost of service?

Mr. THOM. Would it be permissible to interrupt the witness to get the exact case to which the witness is referring? I would like to have the exact case on the record, so as to investigate it.

Mr. McCARTHY. I have no particular objection to stating it, but I do not appear here pleading the cause of this particular concern; but I will state that that case referred to the application of the Birds-eye Marble Co., of Utah, for rates from Thistle, a point on the D. & R. G. Railroad, to points on the eastern market, and I think you will find that all in what has been said by the commission already. Possibly I can give you a reference to it. I do not find that referred to in this brief. I thought there might be a reference to it, but I do not find it. However, I think that matter was referred to in a case.

Mr. ESCH. Renewing my question, do you think there ought to be taken into consideration any other element in determining the rate aside from the cost of service?

Mr. McCARTHY. I think, Mr. Esch, the amount of money legitimately and properly invested is entitled to consideration, and there should be a proper return on it, but I think many of these properties are overcapitalized.

Mr. ESCH. You think the value of the service should be taken into consideration?

Mr. McCARTHY. Possibly to some extent or to some degree.

Mr. ESCH. In the fixing of intermountain rates, do you know whether or not the carriers are influenced in making their intermountain rates more by the value of the service than its cost?

Mr. McCARTHY. I have heard that argument in cases before the commission, but whether or not that is the motive that actuates them in making their rates to the interior I do not know.

Mr. TROY. Mr. Esch, as to the meaning of "value of service," as I understood it, I believe one of the first cases that I know of in which that principle was applied was in the San Diego case—I think the National City Water case—and there the meaning of it was that the company was not entitled to earn anything more than a fair return on the money invested after paying operating and other expenses, but that in that case they had invested more money than was necessary to give the service, and part of it was for an irrigation district down there, and this was the city water rates that they were dealing with, and therefore the court held that the value of the service for the portion of the service given to the city for the city water service was less than the cost of the total service to the irrigation district, and therefore they only allowed them to collect, I think, at that time—the irrigation district or irrigation water was not being used—they only allowed them to collect the value of the service of that plant given to the city, and I always understood that that was the real meaning of the term "value of service."

Mr. ESCH. That has been determined in decisions of the Supreme Court and also adverted to by the Interstate Commerce Commission. I think it is generally known what is meant by the term, and I was asking the witness whether, in his opinion, it weighed in the determination of actual rates.

Mr. McCARTHY. I do not know whether it does or not.

The VICE CHAIRMAN. You deny that there is anything in the existing condition of water transportation to justify invoking an exception to the fourth section, the long-and-short-haul clause?



Mr. McCARTHY. At the present time?

The VICE CHAIRMAN. Yes.

Mr. McCARTHY. Most emphatically. I think to-day, and for the last two years, ever since the disappearance of water competition, these rates should be graded.

The VICE CHAIRMAN. If there was a water service competing between points on the two coasts, you concede that that might be taken into consideration?

Mr. McCARTHY. Yes, sir.

The VICE CHAIRMAN. Can you conceive of any other situation or condition, aside from water transportation, that would justify an exception?

Mr. McCARTHY. Yes; I can; but it is a situation that would be an emergency situation of some sort, Mr. Adamson, and not anything that is of daily occurrence—something that is with us always. I can see where, in cases of emergency, great good might be done to some one and no harm done to any one.

The VICE CHAIRMAN. Of course, emergencies are permissible as exceptions to all rules, but I direct your attention to the theory often insisted on that it is in the interest of the public good that there should be accommodations extended to centers of trade—that is, it is of advantage to the public that there should be large centers for accumulating and distributing goods to the people in the surrounding country—and that that condition justifies what they call basic points, and that it was justified in the interest of the public welfare that competitive rates, although conventional, should be allowed at those places.

Mr. McCARTHY. There might be justification for that. I think, though, that the interior communities or intermediate communities are entitled to whatever advantages may flow from being nearer their sources of supply and being nearer the points of consumption. I think, as your question implies, that distributing centers and jobbing centers are absolutely necessary.

The VICE CHAIRMAN. Is not that especially beneficial in the intermountain regions—would it not be beneficial generally to the surrounding country that Salt Lake City and other points similarly situated should be favored so that they could build up and accumulate and job to the surrounding territory?

Mr. McCARTHY. I do not agree with the word "favored."

The VICE CHAIRMAN. I mean by that, have advantageous rates.

Mr. McCARTHY. I believe if they are given a fair rate adjustment—all that they are reasonably entitled to—then they should and they would be able to serve the population within a reasonable distance most effectively and economically.

The VICE CHAIRMAN. Would you, in making what you call a fair rate adjustment, give to such a center as Salt Lake City lower rates than rates to the surrounding points?

Mr. McCARTHY. I do not think I would.

The VICE CHAIRMAN. What advantage would it have on the accumulation of capital?

Mr. McCARTHY. It would have the advantage of the accumulation of capital, the ability to concentrate stocks of goods, to manufacture and to distribute them. Of course every small town can not be a distributing center.

The VICE CHAIRMAN. My observation has been that in the East the policy of the railroads has been to make rates that would encourage manufacturers along their lines. Does such a policy as that prevail anywhere in the West?

Mr. McCARTHY. Why, in some cases I believe it does.

The VICE CHAIRMAN. The purpose of that being to build up traffic.

Mr. McCARTHY. Although as to manufacturing I do not think that policy is pursued in the intermountain country. It appears to be—whether intentional or not I do not know—but it at least seems that the carriers would prefer to haul in manufactured goods than to take the raw material out for manufacture.

The VICE CHAIRMAN. If a policy of that sort were observed, do you not think it would be beneficial to your intermountain country if they could secure beneficial rates on raw material as well as on finished products, to build up manufactures and create traffic for the railroads as well as prosperity for the region?

Mr. McCARTHY. I certainly do.

The CHAIRMAN. I want to call your attention to the long delay that ensued between 1910, the time this amendment was adopted, and June 30, 1917, when an order was finally made which was subsequently suspended, and I wish to ask you who or what was responsible for that delay?

Mr. McCARTHY. Well, primarily, I think the carriers.

The CHAIRMAN. Well, can you give us any indication of how these delays occurred? Are you familiar with the numerous cases that were brought?

Mr. McCARTHY. Well, I have been in the past, Senator, but my recollection is rather hazy and I would not like to testify in detail for a record of this kind and from memory. I do not think it would be in justice to you.

The CHAIRMAN. You have not closely followed the various cases? Have there been many?

Mr. McCARTHY. Yes, sir.

The CHAIRMAN. Involving different centers, such as Spokane, Reno, Salt Lake, and Tucson?

Mr. McCARTHY. Yes, sir; our interests have been practically common in all these fourth-section cases.

The CHAIRMAN. You have conducted the cases with a common understanding?

Mr. McCARTHY. I will not say that, but they have been conducted along the same lines, because our interests were affected in the same way.

The CHAIRMAN. Do you understand that such conditions as have existed in the intermountain region have also existed in any other section of the country to a greater or less degree?

Mr. McCARTHY. Well, I have heard that to some extent, but I also understood it was to a very, very limited extent as compared with the intermountain situation—that the same conditions existed in the Southeast.

The CHAIRMAN. Have they existed in the Northeast?

Mr. McCARTHY. No, sir; not to my knowledge.

The CHAIRMAN. In the Southeast, have those conditions been corrected there?

Mr. McCARTHY. I do not know.

The CHAIRMAN. Would you say they were less aggravated?

Mr. McCARTHY. That is my understanding. I am not familiar with them.

The CHAIRMAN. That is all. Is Mr. Wade ready to proceed?

Mr. WADE. I did not understand I was to proceed until after Judge Bartine had presented his evidence.

The CHAIRMAN. I will say right here that I do not regard the intermountain country as having the affirmative of this question. There is no reason why the representatives of the various interests should not follow each other.

The VICE CHAIRMAN. I think the reverse is true. I think the burden is on those seeking the exception.

The CHAIRMAN. I should say so, too.

### STATEMENT OF H. M. WADE.

Mr. WADE. I am appearing as commerce counsel for the Oakland Chamber of Commerce. The situation with respect to the Interstate Commerce Commission, so far as Oakland is concerned, has been extremely fair. There has been no great delay, such as I have heard reviewed to-day, so far as it was possible to avoid a delay. These cases have arisen from what might be primarily said to be regional jealousies.

In the original cases, brought by Spokane and Phoenix, they were asking for relief from what they considered abnormal conditions, and after the commission had heard all the evidence presented by both the terminal and interior cities the decision was made that gave relief—very material relief—in view of all the conditions attending the various movements of traffic. The westbound rates of the trans-continental lines were originally established with reference to water. Water has always been a compelling factor, and the rates to the interior points were made with relation to the water conditions, an adjustment that could not be considered unfair, considered from the standpoint of the carrier that was required to reduce its revenue to the terminals in order to meet the condition that was due to circumstances not within its making. After the Spokane and Phoenix cases were decided—

The CHAIRMAN. When were those cases decided?

Mr. WADE. In 1912, I think, was the first publication of the new rates—January 1, 1912. Various other water-compelling influences occurred that often made the terminal rates that were then in effect, so that the carriers could not draw the freight to their rail lines; and as a result further hearings were held by the commission, and in 1914, when the Panama Canal became a great factor in the transportation between the Pacific and Atlantic coasts, the commission considered the whole adjustment again and ordered in rates that were predicated entirely on the water conditions then obtaining.

Among other things, the commission determined a rate upon several commodities designated as schedule C, which was shown to have been enforced by water more than any other commodities, and a rate, for instance, on iron and steel from Chicago at 55 cents and from Pittsburgh of 65 cents was established. The rates to the interior points were graded on differentials over the coast rate; that is, going



back into the eastern territory as well as in the western territory, with a blanket rate of 75 cents to the interior points from the Missouri River.

After water competition had, in a way, disappeared on account of the war, then the commission considered the case again, on appeal of Spokane and other interior cities, and made rates and changed the adjustment by telling the carriers that they would have to iron out the violations of the fourth section. When the case came on for final argument, the terminal cities as well as the carriers took the position that the absence of water competition was merely temporary, and it was a condition that would not exist for any appreciable length of time—at least, that was the thought at that time of all concerned. At any rate, after those arguments were presented to the commission, they decided that water competition was not at this time a factor, and that the rates should be leveled; and the carriers have recently, in compliance with that order of June 30, 1917, proposed certain schedules of rates which will eliminate all fourth-section violations. Oakland still assumes the position that, even though the water competition is temporarily abandoned, by reasons over which we have no control, the possibility of its reestablishment is not removed; that it is merely awaiting the making of peace before the boats are again in operation.

There is a further reason: The Pacific coast cities have been established, and all their manufacturing industries—and the people in general, the whole population—have been erected here for the reason that they had almost positive proof of a reasonable adjustment of freight charges for all time to come, by reason of the great natural facility—water. That is the history of all great cities. They have all been based on some water influence. It is still the contention of the terminal cities that a mere temporary matter of water being out of business or the water transportation not being possible should not immediately wipe out all of the cities as industrial and manufacturing centers. Great investments have been made, perhaps greater than ever would be made at the interior, because they have no products to draw from or the possibility of manufacturing.

The agitation of the interior cities has been going on for the last 10 or 15 years, and they always attempted to get what is apparently not possible, and what the commission has found is not possible, during the time when the conditions that have influenced and do influence the building of these cities are present. The commission has uniformly decided these questions with as much dispatch as circumstances would permit—that is, as far as we can judge—and there has been no delay which can be attributed to inactivity on the part of the commission. It is merely the great bulk of work and the great subject before them to consider.

As an illustration, the commission found in one of their decisions that water influence was felt as far back as Cedar Rapids on flour. I know that water influence was felt at Minneapolis on flour, and those are merely examples of what has occurred in the past and what will occur in the future. Now, if flour can move from Minneapolis to New York and then be sent by the canal or even by the Horn at a rate lower than the transcontinental lines would normally publish, it does not seem to me to be a criterion by which the intermountain

country should demand rates. The situation with respect to the fairness of the commission, I do not believe can be questioned, because in giving the terminal cities certain rate adjustments, which were unquestionably due to water influence, the intermountain cities at the same time benefited and benefited far more largely than they could have expected to benefit without water facilities. There is not one rate, but hundreds of rates, with that general characteristic.

When the commission decided on a class-rate scale, they made a scale of rates lower to Reno than to San Francisco. They found all the conditions obtaining with respect to commodities, both carload and less than carload, and created the rates based on what the terminals were given.

As far as the fourth section is concerned, I believe it goes without saying that the commission must have some latitude. They are the great rate-making power, and the railroads must institute rates at their discretion, and there always must remain in some one a flexible rule that where conditions are of such a nature as to justify relief, that relief should be given; otherwise all our country would be in a stagnated condition.

Reference was made to the southeastern cases that involved a similar situation as that involved on the Pacific coast, where violations of the fourth section were occasioned by river and ocean competition. Anyone who has followed that situation can at once readily understand that it would take anyone a long time to reach a conclusion that was fair to all concerned and that it also would take a considerable study. The same is true with respect to the situation on the Pacific coast. We have always insisted that San Francisco and Oakland and other terminal cities were not, as a right, entitled to a different rate from the interior points, but by reason of natural conditions that made that situation proper. It is not fair from any standpoint to encourage, by the building of the canal and the spending of great sums of money by the Government to establish that service, and to immediately take away from the cities that can take advantage of that great facility all that they have gained. That is not a temporary matter, as I see it. That is one that extends through all the years to come and one that has been consistently the cause of building up the Pacific coast. The interior points, like Salt Lake City and Reno, have prospered and have grown. They have grown possibly not to the extent some of their dreamers have expected, but, of course, dreams are fanciful and one can not always realize his dreams. It is not a dream with respect to Oakland, San Francisco, and all those terminal points with all those natural facilities, but it is a situation that entitles them to greater advantages than those which do not have those advantages present.

It has not been a quarrel, as far as the Pacific coast cities have been concerned, with the interior points as to what the rates shall be, but that the terminal cities are entitled to consideration differently from that given intermediate points, and I believe that the commission has always kept firmly in mind the conditions that we have that are not present at the other points.

The delay that has been spoken of here of some seven years in determining this question has not been one that is properly chargeable to the commission, as they have made numerous orders and con-

sidered numerous different conditions in that time. I think that perhaps in the general testimony that has been offered we have wandered away somewhat from the original purpose, but these few remarks that I am offering are in justification of the fourth section violations, and the continuation of the rule by which the commission shall have the right to make certain changes in the general situation whenever it is necessary. Without this latitude, of course, the points like Oakland or San Francisco or other terminal cities would naturally decay, if the water was not an active source of carriage, within the next few years. The interior points, however, I do not believe would benefit by such action, as a man in locating any large industry naturally looks to all the facilities that are offered him at that particular point. The mere fact that a city has water has, I believe, influenced practically all the great manufacturing jobbers. It is my opinion that it would be many years, even under the most favorable conditions, if there was an absolute fourth section—one that would not permit of any deviation—before the interior points could ever establish what they consider a great manufacturing district that would be equal to that on the Pacific coast.

Now, taking the situation with respect to eastbound movements from California, on which it is testified that the rates have been blanketed, there is a reason for that which has not been expressed, and that is that all rates, practically without exception, applying from California, apply to products of the soil or those things which are directly manufactured from those products—like leather from hides. The carriers in the past have found it good judgment to maintain a blanket rate on the Pacific coast terminal points and on the district that would give all California points an equal opportunity to market their products in the East. That has resulted in building up and developing great parts of the Pacific coast and intermediate territory that would not be developed to the same extent as they have if that were not true. I do not believe that the fact that those rate adjustments are so published and applied has in any way been a detriment to the interior points, because wherever those similar conditions were present at the intermediate points I have observed they have been given the benefit of those rates. For instance, Phoenix developed an industry in growing the citrus fruits of California and the rate was extended to Phoenix, although Phoenix was not on the main line and is not intermediate between California and the East. It is on a branch line.

I do not think there is anything further I need to say.

The CHAIRMAN. Mr. Wade, do you know what proportion of the gross tonnage—intercoast tonnage—between the Atlantic and Pacific is conveyed in any one year, or was conveyed in any one year, through the Panama Canal?

Mr. WADE. I have not the figures at the present time. That is the reason I asked for delay. I saw that question arising, and I believe I have those figures, although not with me. I believe the tonnage was quite large.

The CHAIRMAN. Was it so large as to seriously disturb the transcontinental traffic of the transcontinental lines?

Mr. WADE. As an example, I might mention the fact that structural iron and steel, during the time the canal was in operation, was moved from New York on a rate of between 25 and 35 cents per hundred



pounds, while, at the same time, prior to the relief given by the commission, the rate by the rail lines was 80 cents, and naturally the rail lines did not enjoy any of that business.

The CHAIRMAN. Twenty-five cents a hundred pounds would make only \$5 a ton, would it not?

Mr. WADE. Five dollars a ton; yes, sir.

The CHAIRMAN. Can it be safely assumed that goods can be transported from one coast to another through the canal for \$5 or \$6 a ton?

Mr. WADE. It has been so demonstrated by the American-Hawaiian and the Luckenbach Steamship Line.

The CHAIRMAN. What is the least transcontinental freight rate on the transcontinental rail lines from coast to coast?

Mr. WADE. The least rate that I know of is that applying on pig iron. I think the rate on pig iron now is 55 cents from Chicago, or 50 cents from Chicago.

The CHAIRMAN. That would be \$11 a ton?

Mr. WADE. Yes, sir.

The CHAIRMAN. How much from Atlantic coast ports?

Mr. WADE. Well, there would be a combination over Chicago which would run, perhaps, \$3.50 or \$4 a ton from the Atlantic coast ports above that—\$15 a ton.

The CHAIRMAN. Can we safely assume, therefore, that \$15 a ton is the least for which the transcontinental lines can transport those goods, and that the water lines can transport the same goods at a price of \$5 or \$6 a ton.

Mr. WADE. Yes, sir.

The CHAIRMAN. Then, from the standpoint of the entire country, it is an advantage, is it not, that that service, as far as it can be done, should be accomplished through the Panama Canal?

Mr. WADE. It is; certainly.

The CHAIRMAN. And it is greatly to the advantage of the Pacific coast cities that it should be done, is it not?

Mr. WADE. Yes, sir; it is an advantage that it should be done.

The CHAIRMAN. Now, we will assume that the Panama Canal is able and sufficiently equipped with ships, etc., to meet the requirements of the Pacific coast as far as tonnage is concerned, and then that the Interstate Commerce Commission levels the transcontinental rates in such a way as to make the transcontinental rates from the East to San Francisco the same as to intermediate points, such as Reno and Spokane. What would be the effect, then, upon the Pacific coast cities, of a sudden paralysis of that Panama Canal traffic such as occurred recently when the slides took place in the canal and later on when shipping itself was entirely diverted to the war uses of the Government?

Mr. WADE. The shippers would have to pay the higher rates which the commission would establish.

The CHAIRMAN. What effect would that have upon these great centers—upon the coast?

Mr. WADE. It would have the same effect here as it would anywhere else. If the cost of obtaining raw material was immediately raised to what would be considered prohibitive from the manufacturers' standpoint to compete with the eastern producers—

The CHAIRMAN. How large a population is there in these Pacific coast cities?

Mr. WADE. Oh, between five and six million; that is, those cities—

The CHAIRMAN. How large is the population of the intermountain region that could be regarded as fairly tributary to the Pacific coast cities?

Mr. WADE. I judge it would not be more than 3,000,000.

The CHAIRMAN. As much as that?

Mr. WADE. Approximately that; that is, considered from the standpoint of those cities that would not be tributary exactly eastward.

The CHAIRMAN. Would you regard the entire territory of 3,000,000 people as tributary to this coast, or as dividing itself between the Atlantic coast and the Pacific coast? Which region controls most of the business—the Pacific coast region or the Mississippi Valley region or the region east of that?

Mr. WADE. The region east of the Mississippi Valley controls the most tonnage.

The CHAIRMAN. How far out to the east does the trade of San Francisco extend, in competition with eastern trade?

Mr. WADE. Well, there is not a very clearly defined territory in which they compete. In some commodities the Pacific coast must meet the competition of the eastern producers and manufacturers, especially those that must ship in less-than-carload quantities from the East as against carload movements from the coast and less than carload back. It is the quantity that is required that, of course, controls the market in the interior.

The CHAIRMAN. Your trade does not extend beyond Salt Lake City, does it?

Mr. WADE. Not to any extent.

The CHAIRMAN. From a line drawn north and south from Salt Lake, do you think it would extend that far?

Mr. WADE. Some goes that far; but a fair line, I think, would be just west of Reno and in the vicinity of Phoenix, Ariz.

The CHAIRMAN. To the west of that line, what is the population in the intermountain region—have you any idea?

Mr. WADE. No; I do not believe I could estimate that.

The CHAIRMAN. The bulk of the population of 3,000,000 to which you referred is east of that, is it not?

Mr. WADE. Yes, sir; largely.

The CHAIRMAN. So only a small portion of the 3,000,000 population is tributary to the Pacific coast. Is that a fact?

Mr. WADE. Yes, sir; that would be a fair statement.

The CHAIRMAN. Do you think one-third?

Mr. WADE. Well, it is rather hard to estimate it. I have not prepared any statistics or figures on that subject and do not want to guess at it.

The CHAIRMAN. Would you expect, under the amendment that was adopted in 1910, the Interstate Commerce Commission to be constantly making changes in the relation of these terminal charges to the intermediate charges, as conditions of ocean transportation varied?

Mr. WADE. I think it is absolutely fair to do so for this reason——

The CHAIRMAN. If that had been done, how many changes would you have had to make during the past seven years, from 1910 to 1917?

Mr. WADE. Not any more than has been done, I should judge.

The CHAIRMAN. The complaint is that none of them have been made as far as the intermountain region is concerned.

Mr. WADE. That complaint is a little too large—extremely large.

The CHAIRMAN. Do you contend that any relief has been given under this act to the intermountain region thus far?

Mr. WADE. I think so. It certain has been given.

The CHAIRMAN. Will you give the instance.

Mr. WADE. In the original order of the Interstate Commerce Commission in 1912 the intermountain region was given a readjustment of rates. As a matter of fact, in that case the Salt Lake City rate was taken as a measure for the rates west, in the intermountain territory.

The CHAIRMAN. Was there any other case?

Mr. WADE. And the intermountain cities have benefited by reason of the commission's decision in the schedule C case in 1915. They have benefited regularly whenever the coast rates have been changed on new conditions that came in and made a change necessary. That benefit has been reflected into the interior, for the reason that the commission has consistently created rates to the interior based upon what was done at the Pacific coast, giving them what they considered their relative degree of differentials. My theory of the situation is this, that the carriers should have a right to participate in the business that would otherwise go by the water when the water is a compelling quantity, and when the commission approved the application known as the schedule C list of commodities they gave the carriers the right to publish rates on iron and steel, for instance, from Chicago of 55 cents, and made this 25-cent rate from New York to meet the rate from Pittsburgh; or otherwise all the business would have moved from the Atlantic seaboard and the carriers in the West would not have obtained any of it at all. There would have been no use for their engines and cars and equipment that they had built up in the past. I know at one time, when the competition of the canal was at its highest, that all the western lines had hundreds of empty cars scattered around, and it was only after relief was given by the commission, that permitted them to take a part of this tonnage, that there was any appreciable relief given their equipment whatever. That is all that Oakland and, as far as I know, that is all that the terminal cities are asking for.

The CHAIRMAN. You realize, do you not, Mr. Wade, that seven years is a long time for the intermountain region to wait for relief through the action of the commission.

Mr. WADE. It would be an extremely long time, Senator, but the situation is this: When the intermountain man talks of relief he always talks of relief based upon an absolute flattening out of every rate, and not on relief that would be ordinarily given by reason of circumstances and conditions, but an absolute wiping out of all conditions that go to make the rate at the terminal.



The CHAIRMAN. Your contention is that the relief has been given, although not all the relief that the intermountain region expects and demands?

Mr. WADE. Yes, sir; I believe a review of the decisions of the commission will show that very plainly.

The CHAIRMAN. How do you account for this long delay, or has there been, in your judgment, a long delay?

Mr. WADE. There has been no long delay. The conditions have been changing from time to time, and the rates have been changing from time to time. There has been a long delay in flattening out the rates, because the conditions did not justify such action on the part of the commission.

The CHAIRMAN. Did this last action or opinion of June 30, 1917, flatten out the rates?

Mr. WADE. It gave to the carriers the alternative of either publishing the present rates at the coast at all intermediate points or substituting some other adjustment. The adjustment they have now proposed and is being heard by the commission is an increase of all rates.

The CHAIRMAN. An increase of the terminal rates.

Mr. WADE. An increase of the terminal rates and corresponding increase of a great many interior rates.

The CHAIRMAN. Have those schedules been made by the railroads?

Mr. WADE. Yes, sir.

The CHAIRMAN. And they are now being studied by the commission?

Mr. WADE. The commission is now hearing the applications under the amendment made in August in the fifteenth section. The carriers propose advances, and under the law now advances can not be made until the commission has given its approval, and they apparently do not intend to give their approval without again hearing the testimony and all the facts in the case.

The CHAIRMAN. That inquiry is proceeding now?

Mr. WADE. That inquiry is proceeding now.

The CHAIRMAN. At more than one point?

Mr. WADE. It is now going on in New York and will be held at Chicago on the 12th and in Portland on the 21st.

The CHAIRMAN. Of November?

Mr. WADE. Yes, sir.

The CHAIRMAN. Then, what time can a decision reasonably be expected on that matter?

Mr. WADE. It depends entirely on the record in the case and the new situations that the shippers and those interested can present to the commission as to the reason why the proposed rates are not reasonable, and it will depend entirely on the amount of evidence offered.

The CHAIRMAN. The area of the question involved is a very large one, is it not?

Mr. WADE. Extremely large.

The CHAIRMAN. Because it involves not simply the question of leveling rates between the intermountain region and the Pacific coast but the question of the justice of raising rates at the Pacific coast and other localities?

Mr. WADE. Yes, sir; it involves the volume of the rate.

The CHAIRMAN. Is not that case likely to take a very long time?

Mr. WADE. Well, judging from the size of the case, I should say that perhaps the commission will render a decision within a reasonable time. They always have.

The CHAIRMAN. Has there ever been in the history of this region a larger area of change involved in any case than involved in the question now pending before the Interstate Commerce Commission?

Mr. WADE. I could not say that there has been.

The CHAIRMAN. It would seem so.

Mr. WADE. Because it involves practically all the westbound rates and there are practically no exceptions in the advances which have been proposed.

The CHAIRMAN. Do you not think it better, in view of the long time that has intervened in the enforcement of this law and the numerous questions involved in the future, that the action of the commission regarding this leveling, and the numerous economic changes in communities, and the numerous apprehensions and hopes that may be raised by this proceeding, that it would be better to have an absolute rule?

Mr. WADE. No, sir; because new occasions all require different treatment. The rate situation is of such vital importance to every community in the United States that it is absolutely necessary, to my mind and judgment, to have a flexible rule with a tribunal that is capable of applying the rule when the circumstances require it.

The CHAIRMAN. That is all.

The VICE CHAIRMAN. Mr. Chairman, in the language of Happy Hooligan and his immortal brother, Gloomy Gus, it is time for lunch.

The CHAIRMAN. Do you wish to interrogate the witness?

The VICE CHAIRMAN. No, sir; I am not in a hurry. I would want time to cross-examine a man of this witness's intelligence.

The CHAIRMAN. I think we had better proceed for half an hour and then adjourn for the day.

Senator CUMMINS. Mr. Wade, I have no definite opinion on this subject, but I am trying to get my mind around it. I would like you to view it from two standpoints, the standpoint of the community and the standpoint of the railroads, because I think very different considerations are material when you look at it from one or the other standpoint. You have said that each community is justly entitled to all the advantages of its natural condition. Now, I agree with you about that, I think. Those who live along the Pacific coast are entitled to all the advantages which water transportation will yield. That is your position?

Mr. WADE. Yes, sir.

Senator CUMMINS. There has never been any effort by anybody to take any of those advantages away from you, has there?

Mr. WADE. Oh, yes; the intermountain cities have always insisted on it.

Senator CUMMINS. But the intermountain cities have never suggested that the sea be closed to you in any form?

Mr. WADE. They have insisted that the sea is not a factor.

Senator CUMMINS. You are at liberty to use the ocean to the full extent to which it can serve you, are you not?

Mr. WADE. Yes, sir.

Senator CUMMINS. That is a natural advantage of Oakland and San Francisco and all these other centers, but have you any natural right to insist that freight shall be carried over from Pittsburgh to San Francisco or Oakland more cheaply than it is carried to Reno or Salt Lake? You naturally are at a disadvantage when you go to railroad transportation, are you not?

Mr. WADE. We are at some disadvantage on account of the greater distances involved.

Senator CUMMINS. Now, carefully separate the interests of the railway and its right to participate in this traffic from the natural right of a community. If Reno or Salt Lake were to insist upon their natural rights, they could demand, could they not, a lesser freight rate from the East than obtained in San Francisco or Oakland?

Mr. WADE. Providing there was no other condition present: yes. They have been given now what the commission considers a reasonable rate, and it is not possible to demand more than a reasonable rate.

Senator CUMMINS. Let us confine ourselves rather to abstract propositions than to anything the commission has decided. Freight originating in Pittsburgh or Chicago and destined for the West, one carload for Salt Lake and another carload for Los Angeles of the same commodity, natural justice demands that a lesser rate be given to Salt Lake, does it not—that is her advantage over you or over the Pacific coast?

Mr. WADE. Oh, yes; there is a factor there, and it is very clear.

Senator CUMMINS. Therefore the Pacific coast can not claim there is any infringement upon her natural rights or taking away her natural advantage if a lower freight rate be given to these intermediate points than is given to Pacific coast points, as I look at it.

Mr. WADE. Not if you eliminate entirely the factor of water carriage.

Senator CUMMINS. You can use your water just as freely as you like, and that is your natural advantage, and if you can ship freight from New York to San Francisco at 25 cents a hundred nobody can take that privilege from you; but where do you get any natural right to insist that the railroads shall carry freight from Pittsburgh to San Francisco more cheaply than it carries freight from Pittsburgh to Reno?

Mr. WADE. There is no natural right. We do not claim a natural right.

Senator CUMMINS. You have no right to insist that railway companies shall compete for traffic between the East and West with water lines, have you?

Mr. WADE. No; we have no right to insist that they shall compete—no.

Senator CUMMINS. You know, I assume, that in other countries, where the question has been very carefully considered, the Government has undertaken to regulate both water rates and land rates?

Mr. WADE. Yes, sir.

Senator CUMMINS. You know that Germany and France also and Holland fix the minimum water rates upon certain commodities at



certain times of the year in order to enable the land rates to be maintained, do you not?

Mr. WADE. Yes, sir.

Senator CUMMINS. Do you think that is a good policy?

Mr. WADE. Yes; I do. I believe it is in the interest of the general country.

Senator CUMMINS. So that if it be true that the railroads are compelled to put down their rates to the Pacific coast points, in order to get the traffic, to below the point of compensation, as viewed from the intermediate points, I infer that you are of the opinion that the Government ought to fix minimum rates for water transportation that would enable the railroads to successfully compete?

Mr. WADE. No; I do not believe that would be a good policy to fix the minimum rates for water lines, because they have been the factor that has caused all the great development in the United States—the fact they were free to do what they pleased.

Senator CUMMINS. I am not at all giving my adhesion to the policy of fixing water rates, because I have always doubted its wisdom, but that is the only way in which a carriage at a higher cost can successfully compete, is it not?

Mr. WADE. Yes, sir.

Senator CUMMINS. Now, having reached the conclusion that there are no natural rights, or no infringements of natural advantages on the Pacific coast by giving to the intermediate points a lesser rate than you enjoy here, let us look at it more from the standpoint of the railroads. What lawful right have the railroads to compete with water transportation, and within what bounds may they properly do so?

Mr. WADE. They have a natural right to reach out and take all the tonnage they can in order to keep the property busy in performing the function for which it was built. If they find water competition forcing the rate down, they should be permitted to go out and be permitted to meet those rates as far as the cost of their service will permit. I do not believe any rates established by the carriers in that respect have been below cost.

Senator CUMMINS. What right has a railroad to do business at cost?

Mr. WADE. I do not think they have a right to do business at below cost. My statement was that I do not believe that any of the rates made by the carriers were below cost.

Senator CUMMINS. Suppose the railroads had a system of rates which in the absence of water competition would give a short haul the lesser rate, which seems to be natural, and then water competition came in for the longer haul, do you think the railroads have a right to reduce their rates in order to hold onto the business? I do not mean how much in any particular rate, but generally speaking.

Mr. WADE. I think they should be permitted to take the business that was offered at something more than the out-of-pocket cost of performing the service, in order to be able to continue their property upto the maximum, because it is the volume of traffic that makes the money.

Senator CUMMINS. If they do business at something approaching cost—

Mr. WADE. Let me illustrate it this way: If you have a train moving from Chicago to San Francisco and there were 15 or 20 engines available to handle it, and you only had seven cars available for the traffic that was offered, under the competitive conditions now existing, it would be necessary to move the train with seven cars, while, if you had the power to reach out and take business at something more than cost, you would have a larger train and it would mean an added profit which otherwise would be lost.

Senator CUMMINS. That is the point I have been trying to reach with some of the witnesses. You look upon the railroad as constructed to do noncompetitive business, and that the rates ought to be adjusted upon that basis, and whenever it is necessary to reduce rates, provided they do not go below the cost of carriage, to get competitive business, that it may properly be done?

Mr. WADE. I think so.

Senator CUMMINS. Well, do you attach that to the cost of service—do you believe that that grows out of a consideration of the cost of service?

Mr. WADE. No; I do not, Senator. My thought on that question is that it is really not the cost of service that is so much the question with the shipper as it is the value of the service to him; that is, that is the controlling factor on the Pacific coast.

Senator CUMMINS. But the service is of no greater value to the shipper in San Francisco than at Salt Lake City?

Mr. WADE. No, sir.

Senator CUMMINS. You are shipping a carload of iron to Salt Lake City and another carload of iron to San Francisco, and as far as the shipper is concerned, the value in each case is the same, assuming he makes the same profit out of the shipments.

Mr. WADE. If I may be permitted to say this, perhaps it will make my position clearer: If the carriers give Salt Lake City a rate that is in itself reasonable for the service, and if, due to different circumstances and conditions, they are required to give the Pacific coast a rate that would be less than reasonable, considered from the standpoint of the haul and of the circumstances on account of competition, then Salt Lake City has no complaint because that city has obtained all that it is properly entitled to.

Senator CUMMINS. But do you not beg the whole question when you say if Salt Lake City has a rate that is reasonable in itself? How do you determine whether a rate is reasonable in itself or not?

Mr. WADE. That is a question that it is hardly possible to answer in a few words.

Senator CUMMINS. Broadly speaking, you have to determine it in this way, I take it, that the railroad company must make so much money, and all rates together must raise the money.

Mr. WADE. Yes, sir.

Senator CUMMINS. Therefore each rate should raise its proportion of the money, should it not?

Mr. WADE. Yes, sir; each rate should raise its proportion of the money.

Senator CUMMINS. A rate to Salt Lake City that is higher on the same commodity than one to Los Angeles does not raise its proper proportion of the money, does it?

Mr. WADE. Taken from the standpoint of water competition that was present on the Pacific coast prior to the closing of the canal, or the discontinuance of the service on account of the war, every car of freight that the rail carrier handled to the Pacific coast was what might be considered a profit, because when it went by water line they never had an opportunity of taking any of that money returned by the carrier, and while that rate was lower than the other rates, it paid the cost of performing that service which was performed by the carrier.

Senator CUMMINS. That comes back to the question I asked about the railroads being equipped to do a noncompetitive business, and the rates should be adjusted on that basis, and when it meets competition they should be allowed to go down to any point to get the business that does not go below the actual cost of performing the service.

Mr. WADE. Yes; perhaps that is stated a little differently, but I believe that is what I have stated.

The VICE CHAIRMAN. Is not the test of the matter whether or not Salt Lake City or the other intermediate points suffer a higher rate in order that the railroads may recoup for the reduction granted to the Pacific coast points; is not that the test of whether it is right or not?

Mr. WADE. Whether they suffer a higher rate than the Pacific coast?

The VICE CHAIRMAN. In order that the roads may recoup the losses made at the Pacific coast.

Mr. WADE. I do not believe I can agree with you, for the reason that the rate at Salt Lake City, taken abstractly, saying the commission never passed on it at all, would be based upon the value of the service to that shipper or consignee.

The VICE CHAIRMAN. But you can not determine the value of the service and its reasonableness except by comparison with other points. Now, your contention is that you have the advantage of water competition and you ought not to lose it because the railroad runs through an intermediate point in coming to you. Their contention is that when they maintain your rate in order to meet the water competition here, whether they profess it or figure it out or not, that the aggregate result here is that the loss sustained is added to the rates at these intermediate points. That is the trouble about the situation. If you could demonstrate that the railroad could give them the fair rate they need and not increase it by taking on additional business here at the lower rate, they would have no grounds for complaint, but have the railroads ever demonstrated that, or can they demonstrate it?

Mr. WADE. I do not think it is physically possible to make that demonstration.

The VICE CHAIRMAN. Do you believe that it is true that their rates are not made higher in order to make up the aggregate revenues of the road, in consequence of reducing the rates on the great bulk of business on the coast?

Mr. WADE. I certainly do.

The VICE CHAIRMAN. Do you believe you could ever make the public believe that?

Mr. WADE. That is hard to tell.



Mr. ESCH. What proportion of the output or products of California is fruit?

Mr. WADE. What proportion?

Mr. ESCH. Yes.

Mr. WADE. Well, I have no statistics available. I know that there are something like sixty or seventy thousand cars of fruit shipped a year.

Mr. ESCH. About 60,000 cars?

Mr. WADE. Yes, sir.

Mr. ESCH. In 1914, when the Panama Canal was in operation, were shipments of fruit carried through the canal to the eastern ports?

Mr. WADE. There were some shipments of citrus fruits, but largely the products of California, carried on the boats were canned goods and dried fruit.

Mr. ESCH. Of course, as to fruits, they can be carried through the canal by the use of refrigeration?

Mr. WADE. Yes, sir.

Mr. ESCH. Was it contemplated at any time to carry a large share of the fruit by ships?

Mr. WADE. At one time it was contemplated equipping quite a lot of boats with refrigeration to take shipments of California fruit. I think that perhaps that would have gone through if it had not been for the fact that the trouble occurred—we had the slides in the canal.

Mr. ESCH. When peace comes and travel through the canal is restored, do you think the time will come when the bulk of your fruit will be carried by water?

Mr. WADE. It is entirely possible.

Mr. ESCH. Do you think that that will be true, in view of the reconsignment privilege that it now allowed where you ship by rail?

Mr. WADE. Yes, sir; because the reconsignment privilege has been used more as a means of getting rid of fruit immediately after it is picked rather than for distribution, as I have seen it worked out.

Mr. ESCH. That is considered a rather valuable privilege, is it not?

Mr. WADE. It is of some value; yes, sir. For instance, though it has not always been made use of for the purpose of reaching markets, it has been used for the purpose of delaying shipment or moving it out of line to save car service and other charges.

Mr. ESCH. Would not quite a share of it go by rail, with a reconsignment privilege, notwithstanding the rate by water?

Mr. WADE. Perhaps it would to points west of Chicago, but I do not believe that that part that went east of Chicago would move by rail.

Mr. ESCH. That would go by water?

Mr. WADE. Yes; then come back inland by rail to wherever they want to send it.

Mr. ESCH. That is all.

The CHAIRMAN. The committee will stand adjourned until to-morrow morning at 10 o'clock.

(Whereupon, at 1 o'clock p. m., an adjournment was taken until to-morrow, Wednesday, November 7, 1917, at 10 o'clock a. m.)

WEDNESDAY, NOVEMBER 7, 1917.

The committee met at the Palace Hotel, Wednesday, November 7, 1917, at 10 o'clock a. m., pursuant to adjournment, Senator Francis G. Newlands presiding, Hon. William C. Adamson, vice chairman.

The CHAIRMAN. Mr. Mann, are you ready to proceed?

Mr. MANN. Yes, sir.

#### STATEMENT OF MR. SETH MANN.

Mr. MANN. If it please the chairman and members of the committee, my name is Seth Mann, and I am attorney and manager of the traffic bureau of the San Francisco Chamber of Commerce. I have been engaged in this traffic work, and to some extent in the matters before the commission, involving the administration of the long-and-short-haul clause, for some twelve or more years.

The first matter that I think I should touch upon in connection with this long-and-short-haul clause controversy is this, that we consider that this matter is not primarily a matter for us to defend or to support, but that it is primarily a matter for the carriers themselves to sustain and support. We have no right whatever, legally or otherwise, to enforce before any court or any tribunal, any alleged right or title to terminal rates that shall be lower to the coast cities than to the intermediate points, and we never have claimed that. A loose use of the word "entitled" has sometimes been made in connection with the rates to the terminal points, and is used to indicate and to connote the advantages which attach to the coast cities by nature, and from the fact that they are situated upon the unmonopolizable highways of the sea. So that we frequently say in this matter our appeal is to the sea, because we have no appeal to any other place, tribunal, or court.

When the question of lower rates to a competitive point is up it is a matter for action on the part of the carrier. That is the method of all statutes of that character. The statute of our State here in California authorizes the carriers to make application to our State commission for relief from the long-and-short-haul clause of this State, and this commission of the State of California has granted this relief in a number of instances and denied it in a number of others.

A simple illustration of the relief from the absolute or rigid long-and-short-haul provision is the rate between San Francisco and Los Angeles. Heretofore regular lines of steamers were constantly plying the seas daily between San Francisco and Los Angeles, carrying freight and passengers. Accordingly, while the first-class rate from San Francisco to Los Angeles is 60 cents, the first-class rate from San Francisco to an intermediate point rises above 80 cents to 82 cents, I believe—some points below Bakersfield—and so it continues to this high point, and then the rates proceed to diminish down toward Los Angeles until the 60-cent rate is met, for the reason that goods may move by the sea from San Francisco to Los Angeles at a rate which justifies the 60-cent rate, and then may be brought back north to points north of Los Angeles toward San Francisco,

and that combination of movement and rates brings about the situation that the rates after reaching the high point go down to the ultimate competitive point, Los Angeles. So we have rates dropping from 80 cents to 82 cents down to 60 cents, as we go farther south and as the haul gets longer.

Now, we in the coast cities have endeavored to support this situation on the ground that the carriers have a right to make these lower rates to the competitive points if they see fit to do so on the ground that it is of greater advantage to the carriers and to the intermediate points to make this rate to the coast a lower rate than to the intermediate points, and that in our enjoyment of those rates, while to our benefit and advantage, it is not our absolute or legal right, but that the carriers are entitled to that relief because of the competitive conditions, and that in that sense we may enjoy those lower rates without the charge of enjoying an undue or unjust preference or discrimination. It is a discrimination to make a lower charge to a farther distant point, even if it be upon the ocean, than to an intermediate point. Discrimination exists because there is a difference in the rate, the rate to the longer distant point being lower than the rate to the shorter distant point; but it is not, according to the holdings of the court and Interstate Commerce Commission, an undue or unjust discrimination, and therefore in the general sense it is not an illegal discrimination. It is a lawful discrimination, and therefore we in the coast cities, I think, should especially impress the fact that we have never in any of these cases, notwithstanding the various severe charges that are made against us from time to time, claimed that we were either entitled to lower rates to the coast as a matter of law, or that we were profiting by an illegal or unjust discrimination, when the law and the Interstate Commerce Commission gave relief from time to time to the carriers from the absolute demands of the fourth section, and permitted them under the law to make lower rates to the coast than to the interior. And it is in that attitude that we present ourselves, as we always have presented ourselves, to bodies investigating the subject of this long-and-short-haul clause, both the Interstate Commerce Commission and the courts and before this committee.

Therefore, logically as it appeared to me, the matter of this investigation on this subject should properly have been met in the beginning by the carriers with their defense, but I am given to understand that they may be heard later upon this subject and that this meeting of this committee here in San Francisco is for the purpose of receiving the testimony of shippers on the coast, and accordingly with that introduction I will make some statements, such as we have frequently made heretofore, covering the situation as we understand it to exist.

As to the existence of water competition, it has been claimed by the intermediate points, particularly the intermountain cities of Spokane and Reno, that water competition is an excuse. We have heard that word used here in this testimony. They have also applied bitterer words than that at times and have called it bunk, an absurdity, and a fake. They have claimed that the existence of water competition was of so small moment that there was no justification for its having any effect whatsoever upon the transcontinental rates, particularly as far as the terminal rates were concerned. In



that regard they find themselves in opposition to and in disagreement with a line of decisions of the Interstate Commerce Commission handed down for the last 25 years.

The first case in which this matter arose was the case of the city of Spokane, and was entitled *The Merchants' Union of Spokane Falls v. The Northern Pacific Railroad Co.*, and it is reported in 4 I. C. C., at page 183. The complaint was filed April 2, 1889, and was decided May 28, 1892. The existence of water competition was directly challenged in that complaint. The commission examined the situation and held that water competition, even at that somewhat distant date of 1892, was a forceful competition and a compelling competition which justified the carriers in meeting that competition at the coast points by making rates such that some at least of the traffic would continue to move by rail instead of being transported entirely by water.

There has been some statement here to the effect that the Interstate Commerce Commission has been derelict in its duty and has taken an unconscionable time in the decision of these matters and has rendered only one decision—at least that seemed to me to be the result of the testimony of one of the witnesses—and that of June 30 last. I should like in this connection to suggest a few of the decisions, with their dates of decision, which have been rendered by the Interstate Commerce Commission and which decide this question of the existence of water competition and its materiality and force of determining rates which the carriers were justified in charging to the competitive points.

The first is that very early case of some 25 years ago, which I have just cited. Then we have the case of the *City of Spokane v. the Northern Pacific Railway Co.*, decided June 7, 1910, and reported in 19 I. C. C., page 162. That covered certain recommended commodity rates. They were not ordered in by the commission, but they were recommended by the commission; and later certain action was taken pursuant to that decision, although not directly in accordance with the rates there fixed. Then we have the *Commercial Club of Salt Lake City v. the Atchison, Topeka & Santa Fe*, reported in 19 I. C. C., page 218, and decided June 7, 1910. An order was issued later in that case on June 11, 1911. That covered also certain recommended commodity rates to these intermediate points; and I may say that these recommended commodity rates—recommended by the commission—were rates lower than those in effect at that time to the intermountain points, and the decisions were followed later by schedules of lower commodity rates to these points, and while those rates were not accepted by the commission as just or reasonable, they were permitted to go into effect and reduced the rates to the intermountain points and to Salt Lake. Then we have the *Railroad Commission of Nevada v. the Southern Pacific Co.*, reported in 19 I. C. C., page 238, decided June 6, 1910. This case involved the class rates to Reno, Nev., and a scale of rates was fixed in that case, which is still in effect, the decision of the Interstate Commerce Commission, of course, being based on the reasonableness of the rates themselves. The rate established in that case, first class, from New York to Reno was \$3.50, and the carriers graded that rate to San Francisco on the basis of \$3.70, first class, and those are the class rates to-day.

Then there was the Spokane case, decided about the same time, and, I think, reported in the same volume of the Interstate Commerce Commission reports, which fixed class rates upon a similar basis, as I remember, to Spokane. Then we had the decision entitled *The Railroad Commission of Nevada v. the Southern Pacific Co.*, and the *Maricopa Commercial Club v. the Atchison, Topeka & Santa Fe*, reported in 21 I. C. C., page 329. That case was decided June 22, 1911. It was decided after the amendment to the fourth section, of June 18, 1910, and took into consideration and discussed the amendments to the fourth section of the act as they were made in 1910. That was the decision on what is known as Schedule B, or Order No. 124, which tied the intermountain rates to the coast rates on a percentage or proportion of the coast rates, whatever they might be from time to time, the order being substantially this, that the rates to Chicago to the intermountain points should not exceed 107 per cent of the rates contemporaneously charged to the coast, so that if the rate was \$1 to the coast, the rate from Chicago to the higher intermediate points could not exceed \$1.07, and so on, on any other rates that applied to the coast, and also changing as the rates to the coast changed, and so, as I say, fixing a proportional arrangement as between the intermediate rates and the coast rates and tying those rates to the coast rates. That order also prescribed that the rate from the Buffalo-Pittsburgh territory should not exceed 115 per cent of the contemporaneous coast rates, and that the rates from the New York territory should not exceed 125 per cent of the contemporaneous rates to the coast, whatever they happened to be. That is often referred to as the Schedule B decision, or the percentage decision, or the decision which resulted in Order No. 124.

The case for the north was the *City of Spokane v. the Northern Pacific et al.*, and that was decided June 22, 1911, and is reported in 21 I. C. C., page 400, and established the same relation between the intermediate high points and the coast. Then came the San Francisco and Portland cases, decided by the Interstate Commerce Commission. This was Docket 1243 and is reported in 22 I. C. C. at page 366, and there the Interstate Commerce Commission—

Mr. THOM. What was the date of that?

Mr. MANN. The date of that decision was February 5, 1912. The subject matter of that decision was largely water competition, which exists between San Francisco and Portland, Oreg., and the carriers were permitted to charge lower rates between San Francisco and Portland and to charge higher rates to intermediate points for a less distance, on the ground of the existence of this water competition between the two cities.

In the *City of Spokane v. The Northern Pacific Railway Co.*, decided May 14, 1912, and reported in 23 I. C. C., at page 454, the Interstate Commerce Commission authorized the carriers to put into the city of Spokane and that territory proposed commodity rates less than those existing at the time, I think, however, passing on those rates as the final rates which could be there established, and in the *Railroad Commission of Nevada v. The Southern Pacific Co.*, 23 I. C. C., 456, decided May 15, 1912, one day later, a similar decision was made by the commission with respect to rates applying at the intermediate points of Nevada and Arizona.

It should be said there, perhaps, than some other time, that the decision of June 22, 1911, the schedule B decision—that is to say, the percentage decision—was at that time in course of appeal through the Commerce Court to the United States Supreme Court and the questions there involved were serious, involving the question of the constitutionality of the newly amended fourth section, and also involving many other things, the power and jurisdiction of the Interstate Commerce Commission to establish zones or blankets, etc., from which rates should apply, as the railroads had theretofore done. That case was finally decided in the United States Supreme Court, I think, in June, 1914, and during this period of time which was elapsing from June, 1911, to June, 1914, over 10,000 applications on the part of the railroads all over the United States from North to South and from East to West were pending before the Interstate Commerce Commission, requesting relief from the fourth section and a right to charge a lower rate to the farther distance points than to the intermediate points. The applications of the Southern Pacific Co., for example, to make these rates via the Sunset & Gulf eastbound on asphaltum, beans, barley, canned goods, dried fruit, and wines, are numbered in the 10,000 and during this period of time the Interstate Commerce Commission was awaiting, and properly awaiting, the decision of the court of final resort, the ultimate authority in the United States, as to whether this statute or this amended fourth section was constitutional and as to what the powers of the commission were under that statute, and these applications awaited that decision. After that decision was handed down, the commission proceeded, in my opinion, with celerity and efficiency, to handle these numerous applications for relief from the fourth section from all over the United States, until now, I think, they are fairly well on their way to finishing all that work.

But that delay of three years is not properly chargeable to the Interstate Commerce Commission, for they were awaiting the instruction and information from the Supreme Court of the United States as to what their powers were, if any at all. It was claimed in some sources, and from some sources, that they had no power whatsoever under the statute on the ground that it was unconstitutional and void.

In Fourth Section Application Docket 1243 (24 I. C. C., p. 34), decided June 6, 1912, the Interstate Commerce Commission on the application of the carriers reviewed their decision in the Portland case and affirmed it. Then came the Santa Rosa terminal case, which has been referred to in the testimony at this hearing (24 I. C. C., p. 46), decided June 4, 1912. That was the case when Santa Rosa said "If there are 92 terminal points in and around San Francisco Bay getting terminal rates, why should we not have them?" and the commission said "You may have them." That was the first Santa Rosa case, and out of that situation which was a loaded one, although the Santa Rosa people did not know it, arose considerable litigation. The result was that under the order, as Santa Rosa had complained only against San Jose, Sacramento, Maryville, and Santa Clara, that the order ran to those four points and ordered the carriers to remove the discrimination, which they promptly did, of course, by putting in higher rates to San Jose, Sacramento, Marys-



ville, and Santa Clara. Whereupon there was great declamatory oratory, and suits were commenced by these 4 towns charging that they were discriminated against and a preference had been given the other 92 terminal points. The upshot of that situation was that the Interstate Commerce Commission held that the true terminal points were the ports of unloading, and established San Diego, San Pedro, San Francisco, Portland, Seattle, and Tacoma as the Pacific ports of unloading at which, only, such terminal rates could possibly apply.

There was another Santa Rosa terminal case reported in 29 I. C. C., page 65, decided January 5, 1914, and a third Santa Rosa case reported in 32 I. C. C., page 249, and decided December 29, 1914. In the meanwhile, on July 21, 1914, the Interstate Commerce Commission decided Fourth Section Applications 349, etc., reported in 31 I. C. C., page 511, which covered the rates on sugar eastbound to Chicago and there the commission authorized again a departure from the rigid rule of the fourth section in order that California beet sugar and Hawaiian sugar, which is produced in large quantities and refined in large quantities at San Francisco and elsewhere in California, might be marketed, presumably to the benefit of the consumers in Chicago in competition with the refined sugar coming from or through the ports of New Orleans and New York. The basis of that decision, as I understand it, is what is known as market competition, which is one of the exceptional cases under the head of the words "exceptional cases," in section 4 of the act, together with other competitive conditions, not only those on the water but those on the land, where the longer line must meet the rate of the shorter line, both of them being railroads.

Then there is another jurisdiction of the Interstate Commerce Commission under the fourth section, in exceptional cases, and that is under the provisions of the statute that through rates may not exceed the sum of the locals, and, subject to the jurisdiction of the commission, relief may be granted from that provision of the statute, I understand. The objection of Mr. Gardner, I think it was, that the rates from San Francisco to certain points in Nevada were less than the sum of the locals from San Francisco, we will say, to Reno and from Reno to Winnemucca, is not violative of that provision of the section. There is no objection—no inhibition—against the carriers charging less than the sum of the locals. The inhibition was against charging more than the sum of the locals.

Then we come to what are known as the schedule C cases. The first one I have here is entitled "Fourth Section Applications 205, etc. Commodity Rates to Pacific Coast Terminals and Intermediate Points, reported in 32 I. C. C., page 611, and decided January 29, 1915." These cases are referred to as schedule C cases, and I will take a few moments, with the permission of the committee, to endeavor briefly to outline what is meant by schedules A, B, and C, as I understand them.

Schedule A includes a number of commodities moved between some eastern defined territory and Pacific coast points which do not move by sea—do not conveniently move by sea, or do not ordinarily move by sea—and therefore it may be said substantially do not move by sea, household furniture being a good illustration. That is a bulky com-

modity liable to be injured and costs a great deal to be packed and shipped by sea and does not move by sea ordinarily, and there are a number of items of that class, and in the course of this intermountain litigation, which has steadily caused, I may say, an advancement in the rates to the coast and a depression of the rates to the intermediate points, the carriers were called upon to take out of their terminal rate system those items which were really not competitive items, and the arrangement ultimately arrived at was that the carriers made a list of those articles, and they have been carried in that tariff now for five years, at least I think, and as to those schedule A articles, a large number of them do not violate the fourth section and are not departures from the fourth section. The rates to the intermediate points are not higher than the rates to the coast. So, schedule A is to one side, out of the commodities moving from the eastern defined territory to the coast points.

Schedule B articles are the articles which move by sea, but which do not move by sea in such large quantities, or on which the competition of the sea is not so keen as those articles classified in schedule C. The first order of the commission in the schedule B cases, and which ultimately went to the Supreme Court, was decided on the basis of percentage, as I say—7, 15, and 25 per cent—and at that time, and after the decision of the United States Supreme Court, and when the carriers were engaged in endeavoring to comply with the order of the Interstate Commerce Commission in the so-called schedule B cases, or Order No. 124 cases, they appealed to the commission and asked for a hearing with respect to these commodities which were subject to the keenest kind of sea competition, in order that they might present to the commission the facts concerning those commodities, with a view to obtaining from the commission, if possible, some further relief from the fourth section than was awarded in the schedule B cases.

So, we have schedule A, which does not depart from the fourth section at all; schedule B, which is adjusted on the basis of 7, 15, and 25 per cent; and schedule C cases, in which the commission, after considering the testimony, authorized the carriers to have some further relief from the absolute provisions of the fourth section than had been granted in the schedule B cases, and here, upon carloads, they allowed them 15 cents higher to the intermediate points from Chicago, to 25 cents higher on the Buffalo-Pittsburgh territory, and 35 cents higher from New York territory.

Of course that differential in cents per 100 pounds now—it was formerly in percentages—still ties the intermediate rates—the rates at Reno, the coast rates—because whatever the coast rate is up or down that general maximum is applied. There were, of course, some further details of this matter concerning Missouri River rates and a method of conducting rates on the basis of Missouri River rates, which I will not burden my statement with at the present time, merely outlining the general scheme of the schedule C cases. That case was Fourth Section Application 205, etc., *Commodity Rates to Pacific Coast Terminals and to intermediate points*, decided January 29, 1915, and reported in 32 I. C. C., page 611. There was a later decision in that same case, decided April 30, 1915, reported in 34 I. C. C., page 13, and then we have the decision of June 5, 1916, entitled "In Application 205," etc., and the decision of

June 30, 1917, also entitled "In Application 205," etc. Application 205, gentlemen, is the first application that was made on behalf of the railroads generally here—in a way a blanket application—and filed shortly after the amendment of the statute of June 18, 1910, which protected the carriers under the language of the statute itself, which required that they should file their applications within six months after the effective date of the statute, and they should be protected in those rates; that is to say, not penalized for charging them until the Interstate Commerce Commission had had an opportunity to decide upon those applications.

The decision of June 5, 1916, was made pursuant to the new action taken by the intermountain cities. The canal was opened about the 1st of August, 1914, contemporaneously with the commencement of the European war. It became immediately efficient to a high degree, as the findings of the commission in these cases will show, and it was closed by a slide in the canal on September 1, 1915. Thereupon, as the ships were not moving through the canal because of the slide, the intermountain points, seeing that this canal competition, this sea-borne competition, through the canal had ceased, petitioned the commission to reopen these intermountain cases—these Applications 205, etc.—and to adjudicate the question anew upon the basis of this interruption of sea competition between the two coasts. The commission then investigated that subject at great length, and I may say that in all of these actions that the commission has engaged in—hearings covering weeks and months in each instance, and receiving testimony covering thousands of pages in each of these cases, and cubic feet, if not cubic yards, of exhibits, with thousands and tens of thousands of figures showing the various details and the ultimate figures on each one of these investigations—during all this period of time, I may say, the competition of the water route between New York and San Francisco has been steadily increasing, starting in with the clipper ships around the Horn, followed by steamers around the Horn, and then by steamships conveying the freight across the Isthmus of Panama by railroad, and then through the American-Hawaiian system—conveying freight from the Atlantic to the Pacific over the Isthmus up to Tehuantepec, and it was a good service, indeed—and then, on the opening of the canal on August 1, 1914, the initiation of transportation by water through the canal, then the slide, and the petition of the intermountain points for relief because of the slide or the interruption of the water competition.

The commission again entered upon long hearings of this situation, and at the time of the final hearings and arguments in Washington, in April, 1916, the report of the commission, which had been sent down to examine the Panama Canal had just been filed in Washington, and they reported that the canal was a safe instrument of transportation and would continue so to be, and the canal was opened to traffic on April 15, 1916. But, pursuant to that investigation of the commission, they rendered the decision of June 5, 1916, in which they held that because of the diminution in the effect of water competition between New York and San Francisco, or the New York territory and the Pacific coast, perhaps I should say, the former decision in the schedule C articles—by which the car-



riers had been granted this further relief from the fourth section—should be modified and abrogated, and that the carriers should be compelled to comply with the original order in the schedule B cases; or, in other words, adjust their transcontinental tariffs to the percentage system of 7, 15, and 25 per cent in connection with these common points.

The carriers proceeded to prepare tariffs which, in the language of the Interstate Commerce Commission, purported to comply with this order, but those tariffs did not meet with the approval of everybody, apparently. They were protested not only by the Pacific coast but by the intermountain points to some extent, and by merchants, manufacturers, and commercial interests of the whole United States as well, and a hearing was held in Washington in August, 1916, at which representatives from all over the United States were there complaining of this proposed adjustment by the railroads purporting to comply with this order of June 5, 1916.

In the meanwhile, pending this hearing, the carriers proposed to raise the rates to the coast points without raising the rates to the intermediate points by adding 10 cents per hundred pounds per carload, and 25 cents per hundred pounds to the less-than-carload rates; and those rates to the terminal points were advanced on December 30 of that year by 10 and 25 cents a hundred pounds without any advancement to the intermediate points. That resulted, of course, in a narrowing of the differential, or a difference, if you please, between the rates on any one commodity carried in these rates and the rates at the intermediate points. Those additions referred to schedule C commodities. But the commission, after having heard this situation, was confronted by a still further application on the part of the intermediate points to not only adjudicate the question of the disappearance of the ships on the basis of the schedule C commodities but also on the basis of the schedule B commodities; or, in other words, raising the whole question of the right of the carriers to make any lower rates to the coast than to the intermountain points. This new application was due to the fact that, notwithstanding the removal of the slide in the canal, the activities and exigencies of the European war had transferred the ships into the trans-Atlantic trade.

The amounts of freight offerings to the European ships were enormous. I was told in New York this spring that the fair average rate on a ton of freight moving from America to Europe was \$100 a ton, and yet we had rates through the Panama Canal of \$5 and \$6 per ton, and even before the canal was opened of \$9 per ton on the low-grade commodities of structural steel, etc. Under those circumstances it is not to be wondered at that the ships of available lines should be taken to the Atlantic Ocean and should go into that trade, and, in fact, they did so, and the American-Hawaiian Steamship Co., which has been in this business for many years, withdrew from the trade and chartered their ships in that trade, and the Luckenbach Co. did the same with their ships, and the other companies did the same. It was demonstrated at one of the hearings before the commission that there were 49 ships engaged in that business that disappeared, and the result has been that there has been no regular line in that transportation service since that time.

Of course the people on the coast quite strenuously insisted that this is not a normal condition, and almost everyone seems to be willing to admit it. I say almost everyone. After the war is over we will expect the ships to return, and we will expect this great increase in United States shipping to find its way through the canal, as between the coasts, and in the meanwhile during the abnormal situation brought about by the European war we have endeavored to insist and urge before the commission that the whole transcontinental rate structure should not be thrown overboard and constructed anew when it can not be a matter, according to the opinion of the great mass or the majority of people, of more than two or three years until the situation will right itself and the conditions of competition return.

Commissioner Harlan, of the Interstate Commerce Commission, agrees with that. He writes a dissenting opinion, and a very able one, indeed, we think, to the decision of June 30, 1917, in which he deprecates the interference with this rate structure and commercial relationship on the coast and throughout the United States to a very large extent because of this abnormal and merely temporary condition. It is temporary surely; that is to say, it can not last forever. It is not normal, and it is not permanent.

But the majority of the commission did not agree with Commissioner Harlan, and they held that the water competition had been interrupted, and that accordingly there was no reason for a continuance of departures from the fourth section, and they so ordered, and that is the order of June 30, 1917. They have withdrawn all authority from the carriers to depart from, or violate, if you please—if you prefer that word—to depart from the rigid provisions of the fourth section and have denied them all right to charge any higher rate to a farther distant point than to an intermediate point on the same line in the same direction on the like kind of goods. That also applies on the eastbound rate, that rate which was permitted as a departure from the fourth section, whereby the carriers were allowed to carry these goods, such as asphaltum, beans, barley, canned goods, dried fruit, and wines, at 40 cents from San Francisco to New York, while charging higher rates from Fresno, for example. They were allowed to charge a higher rate from New Orleans to New York, but that departure from the fourth section has been removed. As far as the Pacific coast is concerned, Mr. Chairman, the rigid fourth section is in effect. The rates are not in effect; and as that has been the subject of more or less testimony here, I would like to endeavor to clear it up.

The amendment to the fifteenth section of the act to regulate commerce, signed by the President on August 9, 1917, and instantly becoming law, provides as follows:

*Provided, further.* That until January first, nineteen hundred and twenty, no increased rate, fare, charge, or classification shall be filed except after approval thereof has been secured from the commission. Such approval may, in the discretion of the commission, be given without formal hearing and in such case shall not affect any subsequent proceeding relative to such rate, fare, charge, or classification.

The decision was rendered June 30, 1917, and the effective date of the order was made by the commission October 15, 1917, by no means a time too long, when you consider that the carriers were not only obliged to amend these great transcontinental tariffs which are

volumes in themselves, but were also required to have them on file so that the commission and the public may have 30 days' notice before they become effective. Now, 30 days from October 15 leaves September 15, a month, and ordinarily in order to comply with this section the carriers require, instead of 30, 45 days, which takes it to September 1, and, accordingly, they had but a very brief time to prepare these tariffs, and while in their preparation, I presume, came this law of Congress, and surely that should not be charged to the Interstate Commerce Commission as a part of the delay. The law says that they can not even file their tariffs without the previous approval of the commission.

Therefore, the carriers asked permission to file, obeying the law, and I understand about the 8th of September, and prior, of course, to October 15, they filed their application to file, and I am told that there are now on file with the Interstate Commerce Commission over 1,200 applications to file under this section, covering all sections of the country. I presume by this time—inasmuch as that information is a couple of weeks old—those applications number 2,000 or 1,500. The carriers pursued the rule enacted by Congress, and the Interstate Commerce Commission, seeing that under the new statute it would be absolutely impossible for the carriers to get those rates on file and give 30 days' notice of the rates, etc., by the 15th of October, suspended the effective date of the order until the further order of the commission. In other words, until it could have time to act upon these tariffs as filed. The tariff is filed. We have already received copies of the proposed tariffs, and we all concede—I mean the men who are devoting themselves more or less to the study of traffic conditions—we all agree that an immense transcontinental tariff, such as this is, amended and changed in so many particulars, in order to comply with the rigid rule of the fourth section, would hardly be permitted to go into effect unless the commission held some sort of a hearing.

There were immense protests when 15 per cent advances were proposed by the carriers, and it looked for a while as though we were not going to have any preliminary hearings on them; but the commission, of course, granted the hearing; and now, while it is not to be denied that the commission may accept tariffs for filing without a hearing under this amended fifteenth section, yet it was very clear, and almost absolutely positive, that the commission would be obliged to call a hearing when so many rates—thousands upon thousands of rates—were involved in this new tariff proposed by the carriers, pursuant to the order of the commission and in accordance with the new law of Congress, and the commission has proceeded by way of informal hearings, as authorized by the statute, and they commenced in New York, before Examiner Thurtell, on the 5th of this month. They will be continued on the 12th of November at Chicago, and will be continued on the 21st of November at Portland, Oreg.

I can not see how the commission——

The CHAIRMAN. Is that hearing being held by an examiner or by the commission itself?

Mr. MANN. By Attorney Examiner Thurtell, who has presided over all fourth section applications. He has written tentative opinions, and the opinion of June 30, 1917, is based upon the tentative



opinion which Mr. Thurtell himself wrote, although it is not the same. It has been very materially altered. Mr. Thurtell is conducting the hearing, and it seems to me there is no complaint on the part of the intermountain people against this selection. He was professor of mathematics at Nevada University and a member of the Nevada State commission at the time the first Reno cases were tried, and by reason of his ability was invited to the Interstate Commerce Commission, and he has been with them now for four or five or six years, and he is conducting this hearing.

I might add that my information is that numerous protests from various parts of the country were received by the commission against these proposed tariffs of the carriers, and possibly for that reason the commission has felt that it was necessary for them to give some hearings on these proposed tariffs, which were proposed by the carriers in response to the order of the commission under the law of Congress as it now stands. I think it would be much to be deprecated if tariffs of the extreme importance of these transcontinental tariffs, which are said to affect either directly or indirectly nearly every commercial and manufacturing interest in the United States, should be allowed to become effective without some opportunity being presented to the shippers and the commercial interests of being heard and of offering such objections as they may have to make against this, that, or the other rate. There will be thousands of rates in these tariffs.

THE VICE CHAIRMAN. I suppose you heard the statement made by Senator Cummins and myself the other day, that when the conference committee was trying to agree on this amendment to the fifteenth section we were encouraged by two members of the commission stating that so much information had been accumulated by the commission that it will not take them long to decide on the reasonableness of any rate.

MR. MANN. I should say that the commissioners were unduly optimistic under those circumstances. Of course, they have accumulated information that it would take a room to hold on this subject, but the peculiarity of this subject is, Mr. Adamson, that it hardly remains the same from day to day. The situation changes, certainly, from year to year, and in my opinion it never will be settled in the sense of being absolutely nailed down. I think this, for example, that the transportation rates will never be as low as they were two or three or four years ago; I think the rates by water will never be as low as they were upon the opening of the Panama Canal. The cost of operation, the cost of service, the cost of materials and supplies, the wages of the men that are to be employed will absolutely make it necessary that the transportation charges by water should be higher than they ever have been. One can not conduct a business of any kind at a loss for any great length of time. So, the rate schedules of all carriers, whether land or sea, will be on a higher basis in the future than they have been in the past.

THE VICE CHAIRMAN. It has been our rule not to ask any questions until a witness has finished, but I suppose you have in mind some recent shipping legislation that will raise the cost of shipping by water.

MR. MANN. Yes, sir; particularly the shipping bill. It has been regarded by myself and most of the men engaged in the shipping business as a piece of legislation which has resulted only in advan-

tage to the Japanese carriers; they are about the only ones left sailing between here and the Orient. A very large part, if not the greater part of the tonnage is being carried in Japanese bottoms, but that, of course, is by the way.

Now, as to the question of water competition being bunk, a fake and of no importance whatsoever with respect to making rates——

The VICE CHAIRMAN. You are wrong about suggesting that the talk about ships is by the way, because the jurisdiction of this joint subcommittee, under the powers conferred on it by joint resolution 60, is to investigate foreign as well as domestic transportation.

Mr. MANN. It covers shipping as well as interstate commerce?

The VICE CHAIRMAN. Yes, sir.

Mr. MANN. I do not want to drift so far afield as to get into China and Japan, however. I shall try to stay in the United States and California. However, I am willing to go as far as my transportation will take me, Mr. Adamson.

Speaking of the contention of the intermountain points, let me say, at the first, that we have no complaint against the intermountain points. San Francisco has no commercial jealousy to indulge against Reno. If Reno in the next two or three years, during which time the transcontinental rates shall be the same to Reno as to the coast and no more, but in some instances lower, because the carriers propose to grade some of those rates up, so that we will have to pay higher rates than Reno—if Reno during the next two or three years, during which they will have this new adjustment—shall become a great distributing center or shipping center we shall be glad to see that advance. We try, in the commercial bodies of San Francisco, as far as possible, to take a somewhat broader view than the confines of the State of California and the county of San Francisco, and the greater the development of this country, whatever it is, the better it will be for San Francisco. As Commissioner Lane said, in one of the transcontinental cases, these points, at least, will always be the entrepot of foreign and ocean commerce.

Of course that has always been the case. But we have never had any material or substantial commercial conflict with the rates to Reno. Reno has been one of San Francisco's best customers, and I have heard the most kindly expressions from representatives of the Reno Chamber of Commerce, and I have, on many occasions, sat down and conversed in the most friendly way with them and have explained to them, as I am endeavoring to explain to the committee, what our real attitude is. The truth of the matter is that the commercial battle waged for all these years—25 or 30 years; ever since the railroads came here; since 1869; we will say 50 years, if you like—is a battle between the coast commercial centers and the Middle or Central West. It is the Chicago territory and the St. Louis territory and those great centers of manufacture and distribution, comprising, as they do, the greatest jobbing houses in the world, that we have been obliged to contend against in order to maintain our trade.

There is another circumstance which I must mention as it comes to my mind, and that is this, the advantage to the people of California and of Nevada and Arizona and of Spokane territory and of the Idaho territory from time to time of the great com-

mercial so-called jobbing or wholesale houses which have been established on the Pacific coast. They are great emporiums of supply. They carry millions of dollars worth of goods which are brought from the East on terminal rates, and generally in carload lots, and they are able to supply the farmer or the dealer in the country town with his needs within a day or two, within such time as it takes his order to be transported upon the railroad, conveniently, therefore, in point of time, and furthermore, as a matter of business, even more conveniently, for these men without the assistance of these great emporiums would be obliged to deal with perhaps a hundred different people throughout the country and carry charge or credit accounts with 100 different men in various parts of the country, while here these emporiums assemble the goods in one warehouse and they carry one account. That is a business condition which we have heard urged most strenuously as of advantage to the country or the interior merchants or manufacturers or farmers or agriculturist, or whoever it is that deals with these people; so that while the jobber is sometimes hinted at or directly attacked as an unnecessary barnacle upon the ship of state, he, nevertheless, performs a large and important function in the convenient distribution of goods and the filling of the needs and necessities of life and civilization.

But this is not a jobbers' fight, as our friends from the intermountain points would have you understand, as far as this case is concerned.

We have no substantial or material jobbing contests with them at all. If it is a jobbers' contest anywhere at all, it is the jobbers of the intermountain points who are making the fight in order that they may become great jobbers. We hope they will. It does not make any difference to us if they do, but if the situation with respect to rates becomes such that Chicago and St. Louis and the great mercantile houses of the Central West shall be shipping into our customers in California and west of the mountains, if you please, west of the Sierras, and west of the Cascade Mountains, at a less rate than we can bring the goods from the points of origin and then distribute them in less than carload quantities, we will be forced to the very verge of the water without any opportunity to sell our goods outside of the confines of our own towns and perhaps 50 miles beyond. That is not the whole of the situation by any means. It is not a jobbers' contest at all, except so far as the interior is concerned.

We are very much interested in our manufacturers here on the coast, and we are able to point with considerable pride to the fact that our manufacturing industries have tremendously increased in the last 4, 5, or 10 years, or any period you may select. New sources of manufacturing enterprises are arising, and in almost any manufacturing enterprise conducted on the coast that can be pointed to it will be found that in two ways we are opposed or aligned against the commercial situation in the East, and that is this: In the first place, our raw material will be almost entirely brought from the East, as, for example, all the steel which enters into our shipbuilding, which has increased manifold, indeed, in the last two years, until our Union Iron Plant is the largest plant in the United States to-day, situated in Alameda at San Francisco. It is said that the basis of any manufacturing industry is coal and iron, and so, as the basis of everything,



whether machinery or anything else, we must bring our iron from the East, and then again where we sell our manufactured article here, near at hand, or far away, we must immediately meet the competition of the superior manufacturer in the East—that is, superior at the present time—and those rates which the law permits us to enjoy are of great importance to us, and have been the basis, or very largely the basis, of our 50 years' growth upon the Pacific coast.

Returning again to this alleged water competition as our intermountain friends would call it, I desire to read into the record, if I may, the statement of Judge Prouty, formerly a member of the Interstate Commerce Commission, in the *City of Spokane v. Northern Pacific Railroad Co.* case (15 I. C. C., p. 376, 383). That is a case decided prior to 1910, decided in February, 1909, in which Judge Prouty, in reviewing the situation, and in answer to the direct issue which had been presented in that case, namely, that there was no water competition in 1909, which justified any diminution in the terminal rates, said:

This commission has several times examined this claim of the defendants with respect to other intermediate points, has found that water competition did exist as now asserted by the defendants, and has held that this competition did in the main justify the system of transcontinental tariffs which these defendants have established. (*Kindell v. Atchison, Topeka & Santa Fe Ry. Co.*, 8 I. C. C. Rep., 608; *Shippers' Union of Phoenix v. Atchison, Topeka & Santa Fe Ry. Co.*, ib., 250; *Business Men's League of St. Louis v. Atchison, Topeka & Santa Fe Ry. Co.*, 9 ib., 318.) It also reached substantially the same conclusion with respect to the city of Spokane in a former proceeding. (*Merchants' Union of Spokane v. Northern Pacific Ry. Co. et al.*, 5 I. C. C. Rep., 478.)

In that case Judge Prouty, referring to the disadvantages of the American-Hawaiian Steamship Co. under which they labored when operating via the Horn and through the Strait of Magellan, said, at page 385:

Nevertheless it always produced an effect, in fact a controlling effect, upon railway rates from the Atlantic to the Pacific coast.

And at page 386 the report says:

It can not be denied, in view of these uncontroverted facts, that water competition does exist and that it does produce a controlling effect upon rates to the Pacific coast from many eastern destinations. It is beyond doubt that this competition absolutely limits those rates from New York and points within a few hundred miles of New York to Pacific coast terminals.

Now in the case of the applications for relief under the fourth section Nos. 205, etc., *City of Spokane v. Northern Pacific Railway Co.* (21 I. C. C., p. 400)—that was the decision rendered on June 22, 1911—we have Judge Prouty again discussing this situation.

Mr. ESCH. The first was in 1909?

Mr. MANN. The first was in 1909, and now we have again Judge Prouty, in 1911.

He says:

The complainants insisted upon the original hearing, and have renewed the claim at every stage of this proceeding, that there is no active water competition; that the whole claim of water competition is put forward by the defendants as a pretense by which to justify the rank discrimination against interior points. The first inquiry is therefore whether water competition actually exists which has produced and does produce an effect upon rates from the Atlantic seaboard to the Pacific coast, from New York to San Francisco, treating these two cities as illustrative of the localities in which they stand.

This question of fact has been often considered in the past, and with but one unvarying result. The circuit court of the United States has twice found, once in a proceeding concerning these very rates to Spokane, that active water competition does exist, which controls the coast rate. (*Farmers' L. & T. Co. v. N. P. Ry. Co.*, 83 Fed. Rep., 249; *I. C. C. v. A. T. & S. F. Ry. Co.*, 50 Fed. Rep., 295.)

This commission has repeatedly found and recognized the same fact. (Citing a long list of cases and authorities.)

In the original hearing of the Spokane case we reexamined that whole question and reaffirmed our decision. (*City of Spokane v. Northern Pacific Ry. Co.*, 15 I. C. C. Rep., 376.)

In the recent hearing upon the applications of transcontinental lines for leave to disregard the rule of the fourth section, evidence has again been produced upon this subject which conclusively shows that the previous finding of the commission is right. We had before us in the Spokane case the manifests of two ships from New York to San Francisco, and in the last hearing we had the manifests of two other ships. They showed in detail the articles transported, the point where they originated, the destination for which they were intended, and the rate under which they moved. These actual transactions prove more conclusively than any mere statement that almost every article which is the subject of ordinary commerce between the coasts can and does move from New York to San Francisco by water rates materially lower than those maintained by the defendants by rail. We have used San Francisco as the destination port upon the Pacific coast, and in some instances rates from New York to San Francisco are a trifle lower than to other coast cities, but generally speaking the San Francisco rate is maintained at Los Angeles, Portland, Seattle, Tacoma, and other points upon the coast.

Passing for the time being the extent and effect of this competition at interior points, it must be found as a fact that there is real and active water competition between New York and San Francisco, between the Atlantic and the Pacific coasts, which does limit the rate of transportation which can be charged by rail between those points upon nearly every article which moves by rail.

It is said that the amount of the movement by water is so insignificant that it should be disregarded. The amount is not so insignificant. If reference be had to the traffic which actually originates upon the Atlantic seaboard, a considerable percentage moves by water, but the significant thing is not the amount of the movement, but the ever-present possibility of that movement. As was said by the Supreme Court in the Alabama Midland case, speaking of the effect produced upon rail rates to Montgomery by the Alabama River:

" \* \* \* When the rates to Montgomery were higher a few years ago than now, actual active water-line competition by the river came in, and rates were reduced to the level of the lowest practicable paying water rates, and the volume of carriage by the river is now comparatively small; but the controlling power of that water line remains in full force and must ever remain in force as long as the river remains navigable to its present capacity."

So here the ocean is ever present. The possibility of using it as an avenue of transportation is ever open, and the fact that it will be used, or for any considerable length of time the defendants maintain rates which are so high or so adjusted as to render it profitable for shippers to resort to that means of transportation, is never doubtful.

That is the end of the quotation. Now, in the hearing in October, 1914—I forget the exact date, but anyway the hearing that preceded the decision of the commission in the first schedule C cases—the rail carriers presented testimony and exhibits showing the exact amount of the movement for the first three months after the canal opened on October 1, 1914, and on each particular commodity and upon all the commodities, and their showing was to the effect that, taking those three months as typical of the year, the amount of movement in the year would be 1,000,000 tons; and it is strange, perhaps, that the amount that actually moved was almost exactly that amount, according to the returns of the year, up to August 1, 1915; and of that 1,000,000 tons of freight the railroads showed just what they were losing and showed just what their empty-car condition was; and they said this—

Mr. THOM. May I ask whether that was westbound?

Mr. MANN. Yes, sir; westbound; thank you. There was, I think, six hundred or seven hundred or eight hundred thousand tons—I do not just remember which—eastbound California products that went by the canal.

And the result was that the commission in the schedule C cases found, as they had continually found for 25 years, not only that there was water competition but that it had become extremely effective after the opening of the Panama Canal, and authorized the railroads in these particular cases, where these particular movements were concerned, to hold somewhat of the freight to their rails by making rates which would take the freight by rail, and this point was urged by the carriers, it has always seemed to me, with a great deal of force and effect and logical power, and that was this: Why should any intermediate point object to the rail carrier carrying some freight to the terminal if it was bound to go there by water anyway; if the rail carriers did not get it it would go by sea; then, why should the intermediate points object to the rail carriers making some little out of that competitive freight—not making much, but making something, and getting their fair share for the rails? I do not see but that that represents the whole situation of their transportation case. They can take it or leave it, but they can not get it to make anything out of it, no matter how little, unless they make rates in competition with their water rates.

We coast cities do not want to take a stand that may seem too egotistic or too self-reliant, but we have great reliance upon San Francisco Bay and the Pacific Ocean here at San Francisco, and the other cities on the coast feel the same way. I know it will be the desire of Congress and our Government to increase the American merchant marine and increase shipping by water, but we feel quite confident that we will always have that means of transportation, fourth section or no fourth section, but we also feel this, that we need other means of transportation that we can have here upon the Pacific coast.

Of course, in these abnormal conditions there is congestion, but even when conditions are not abnormal these rail carriers are very busy, and there have been car shortages prior to these present conditions, in 1907, for example. We are particularly dependent upon the rail carriers to help us in the distribution of our excess products on the Pacific.

California ships to the east and to Europe probably 100,000 carloads of California products in a year. I think that is not an overstatement. With the orange crop, the canned-goods crop, canned-salmon crop, our beans, our barley and lumber, we have an immense shipment going east to feed and supply the people of the United States with the necessities of life, and much of that goes forward to our allies in Europe at the present time. We, therefore, are interested not only in the westbound movement of traffic, but also in the east-bound movement of traffic, and we wish, therefore, that our carriers by land, or by sea, if it comes to that, shall so develop in the future as to be as prosperous and as efficient as possible, and we therefore seriously believe and urge in this matter that any fair and just arrangement which is not unduly or unjustly discriminatory should be permitted to the carriers if it will increase their efficiency and do no one else any harm.



So, then, we take the position that is our hope, notwithstanding the fact of our constant and confident reliance upon the sea, that the rail carriers, our other means of transportation, shall be allowed to pursue that financial policy or business policy which will make them most efficient and most prosperous without, of course, undue or unjust discrimination against any other community. In that regard we are also favorable to all means of transportation, including inland waterways. We would like to see the Mississippi River a means of water transportation which would give us water communication with Chicago, by reason of the Mississippi River and the Panama Canal. We want to see the rivers of our State and of our Pacific coast cities, and of all cities, improved and increased with respect to their transportation powers. We need them, and we need their means of transportation.

I remember, in 1907, when we had the car shortage before, James J. Hill, of the Northern Pacific Railroad, stated that the trouble with the transportation systems of the United States was that we needed a great system of double tracking and that at least four or five billions of dollars should be expended in double tracking the transcontinental railroads. Gentlemen, until that is done, we shall not be in that high degree of efficiency that the transcontinental rail carriers should be in. The Southern Pacific is doing a great work in that regard and should be praised for it, not because they are an eleemosynary institution, but because they are wise enough to see the necessities of the situation, and in that regard I want to say what I perhaps omitted to say in the beginning, and that is this, that as far as the rail carriers are concerned, we are constantly opposed against them, and we maintain many cases against them, and frequently win these cases, but our position is one we hope of enlightened self interest. We think that is the position of the carriers. If the transcontinental carriers are attacked on the proposition of this adjustment, based on sea competition, we, seeing it is to our advantage from an enlightened selfishness, if you please, or from an enlightened self interest—that is better—that the continuance of this situation will be to the advantage of these roads themselves, not to mention here the advantage of the intermediate points as well—because if the carriers are not allowed to make these millions on the terminal rates they will have to be given millions from the intermediate rates, at least, so the Interstate Commerce Commission finds—and under all these considerations and all those circumstances, we feel we are not taking any selfish position; that we are not advocating or defending any preferential rates; that we are not seeking to retain something that does not belong to us or ought not to be granted to us, but we feel justified in taking the stand that our position is one to the advantage of everyone, and that an interference with it is simply to the disadvantage of everyone concerned, either directly or indirectly.

There are one or two matters that I would like to speak of before concluding, although I have taken more time than I expected to. I wanted to bring out this fact, that during the progress of these hearings before the Interstate Commerce Commission the rates at the intermountain points have steadily decreased, so much so that it was demonstrated at one of the recent hearings before the commission,

that by taking the rates fixed by the Interstate Commerce Commission—commodity rates—from eastern defined territory to Salt Lake City, and then projecting them to Reno upon the same proportional relationship which the class rates upon the same commodity, also fixed by the commission at Salt Lake, bore to the class rate on the same commodity also fixed by the commission at Reno, the result would be that in substantially all the commodity rates now enjoyed by the city of Reno very material advancement would have to be made.

I want to say this, further, in conclusion, that when we heard that this joint committee of the House and Senate was to hold sessions here in San Francisco, we expected that the chief subject of investigation would be those upon which the committee heard much testimony in the statements in Washington, such as the supervision of the issuance of securities, stocks, and bonds by railroad companies, the question of Federal incorporation, the question of interstate commerce jurisdiction over such State rates as affected interstate commerce, etc., and I had expected to say something upon those subjects. I may say that the Chamber of Commerce of San Francisco has voted in the affirmative of those propositions, which were contained in what is called referendum 21 of the Chamber of Commerce of the United States, and probably during this hearing, if this committee has the time, the manager or the president of the chamber of commerce will appear before you to make a statement in that regard.

The CHAIRMAN. Do you desire, Mr. Mann, to address the committee on those subjects? I am sure the committee will be glad to hear you if you care to make any statement.

Mr. MANN. I reserved two hours' time, and I seem to have taken nearly all of it, having left probably four or five minutes. This is a subject upon which I could write books, and sometimes I wish that my enemy had written books.

Mr. SIMS. Perhaps you have no enemies.

Mr. MANN. I should be glad to think so.

The CHAIRMAN. Have you closed with what you intend to say?

Mr. MANN. Yes, sir.

Mr. THOM. Would it be in order for me, as representing the railroads, to express a desire to hear from the witness on those other points?

The CHAIRMAN. We have no objection.

Mr. THOM. I would like you to express your views on this subject to the committee.

The CHAIRMAN. Mr. Mann, if you wish to proceed upon the other subjects, the committee is willing to hear you.

Mr. MANN. Well, perhaps I can finish those subjects very shortly, and I will endeavor to do so.

As to the supervision or control of securities, stocks, and bonds I do not feel like spending much time. It seems to me the subject has been pretty generally covered and that on that subject we are in pretty general agreement.

We here in California, at any rate, have been most highly satisfied with our State commission's work in that regard. While there was more or less protest in the beginning as against our commis-

sion's activity in that regard, I think the people generally are coming now to believe that our financial situation in California has been bettered by our State commission. The objection seems to be largely from people who found they could not sell stocks and bonds as formerly, and it was not so easy, perhaps, to dispose of bonds and stocks of corporations that were in the mere promoting stage, but, nevertheless, the sale of any good bond or good stock, well secured, or reasonably secured, has certainly been increased, and the feeling generally in the State of California is one of great satisfaction with the administration of this law by our State commission.

I might say right there that if the State railroad commissions of all the States of the United States were of the same high type and character as the State Railroad Commission of the State of California, I hardly believe we would have the question of the Federal control of railroads before us at all, and that the railroads themselves would be satisfied to continue in the same way.

As to the Federal incorporation of railroads, I have been examining lately the recent case of the Adams Express Co. versus the State of South Dakota. It is quoted in the last copy of the advanced opinions, page 626, I think.

In that case the Supreme Court is again passing upon one of the questions that arose in the principle announced in the Shreveport case, following the indication contained in the Minnesota rate case, as to the power and jurisdiction of the commission over discriminations that occur between an interstate rate on one hand and a purely intrastate rate on the other, and it seems to me that this jurisdiction of the Interstate Commerce Commission, or, we will say, of Congress—because the Interstate Commerce Commission is a hand or arm of Congress—this jurisdiction which it has over State rates should be defined in some more definite way than it is sure to be if left to the interpretation of the decisions of the United States Supreme Court—and I say that with all respect to that great body of jurists—but, of course, a court, as we all know, must confine itself to the decision of the case before it, and its dicta are not necessarily binding; so some definite rule should be established in that respect.

So, then, under the Shreveport jurisdiction over discriminations we find cases multiplying before the Interstate Commerce Commission and cases on the way up to the Supreme Court, really not because of anyone's doubt as to the power of the commission as announced in the Shreveport case but because of the very serious doubt whether that power could be exercised on the particular facts in a particular case, and that was the Adams Express case.

So we find the Supreme Court of the United States in that case taking up, first, the articles of incorporation of the Adams Express Co., ascertaining whether those articles of incorporation, granted under the State of South Dakota, if I remember correctly, were by reason of the laws of the State of South Dakota and under the terms of the incorporation act of such character as to be the subject of later State statutory enactment. Well, they determined that question in the affirmative, and then they found, therefore, that the incorporation charter and the company that was using it were subject to subsequent statutory enactments of the State of South Dakota, and they took up the statute—and it was a regulatory statute—and that statute pro-



vided, in almost the exact words of the fourth section, that they should not be allowed to violate the long-and-short-haul principle.

They took up the statute with respect to the method of publication of rates within the State of South Dakota, of the requisite action on the part of the railroad commission of the State of South Dakota, and after interpreting that law and the powers of the commission of the State of South Dakota they took up the question of the jurisdiction of the Supreme Court of the State of South Dakota and they held that the interpretation of the supreme court of the State of a statute not involving a Federal question would be accepted in the Supreme Court of the United States, although the Supreme Court of the United States could not, as a matter of fact, agree with the State court as to the proper interpretation of the meaning of the statute, and then they took up the question as to whether or not the order of the Interstate Commerce Commission was sufficiently definite to justify the Adams Express Co. in raising certain intrastate rates, because it was alleged on the part of the State officials in prosecuting this matter that the order of the Interstate Commerce Commission was not sufficiently definite, or, in other words, was void for indefiniteness, and the Supreme Court, Judge Brandeis writing the opinion, held that by consulting the map, as the decision says, the decision of the commission could be made definite, but suggests that hereafter the commission make more definite orders; that the present order on its face was indefinite, but by consulting the map it could be made definite, and so he held that it was sufficiently definite by consulting the map.

Then the Supreme Court held that the order of the commission must apply to the competitive territory in question, but not with respect to any rate applying outside of the competitive territory in question, which was all within the State of South Dakota, and accordingly they held that the judgment of the State court was partly valid and partly invalid. They sustained it in part and overturned it in part. The State court had issued an injunction to all the rates, claiming the Interstate Commerce Commission had no jurisdiction; that it had not proceeded according to the law, and they held that in so far as the injunction of the State court enjoined the rates proposed by the express company in other parts of the State than competitive territory it was valid, but as to the competitive territory it was invalid, and that the commission's order was the powerful or dominating order.

Now that case, to me, presents many reasons for congressional action—for clarifying congressional action—as to the extent of this authority, or perhaps better the manner of its exercise, but if the interstate carriers, whether express or railroad companies, were incorporated under Federal incorporation laws, then that phase of the decision becomes unnecessary and that phase of the decision which is concerned with the interpretation of the incorporation under the laws of the State of South Dakota becomes unnecessary, and all questions with respect to the meaning of the charters of 2,000 carriers—if there are 2,000 carriers or less in the United States—becomes settled, because they are all the same and are all under the same law like the

national banks. So on that ground, if for none other, it seems that the Federal incorporation of transcontinental carriers is advisable.

Then, Federal incorporation of carriers, to my mind, is very closely connected with Federal jurisdiction over local rates or State rates, because if the Federal commission is to be given control over State rates as far as they affect interstate commerce it certainly will be a simplification of the subject if the carriers are all incorporated under a national act, and in regard I may say that I have great confidence (thinking this out in my own mind) that the draft of such a law will be made with great care and great efficiency and an excellent, thoroughly competent law will be made if Congress passes such a law, and if it is not right it will be made right, and I state as the basis of all thought, in matters of this kind we must place the pediment of complete confidence in our Government officials; otherwise there is no opportunity for thought at all.

Now, as to Federal control over State roads: Of course, we have it decided in the Minnesota rate case (230 U. S., 352) that Congress has the dominant power over State rates now as far as they affect interstate commerce, so that the enacting of a law of that kind would be no more than the exercise of a power which Congress already has, and the question, therefore, becomes one largely of policy, as I see it, and not one of law. I think Mr. Thelen, in his statement to the commission, very clearly demonstrated that there is no particular question of law involved, as far as the powers of Congress may be concerned in these matters, and so, if there is not, then, of course, it becomes purely a matter of policy.

Now, in that regard, and as far as the State commissions are concerned, looking at it from a Californian and a San Franciscan point of view, I should certainly say no; it certainly is a great deal better that the local rates in the State of California should be presided over with such a State commission as we have. We are entirely satisfied, and I would not think of making a change; and I am far from believing the carriers themselves—if all the other States were as fortunate as we are—they would be far from desiring such a radical change in the law as is proposed; but, of course, in many States—not all of them, of course, because there are some with very capable, fine men—but in many States the conditions are not such that we find in California.

THE VICE CHAIRMAN. Is that according to your judgment or the judgment of the people in those particular States? Suppose each of them is as well satisfied with their commissions as you are with yours?

MR. MANN. I should have to differ with some of them.

THE VICE CHAIRMAN. They may differ with you.

MR. MANN. That is their American privilege, to differ with me. Remember I have been brought up under the theory of State rights.

THE VICE CHAIRMAN. I do not care about State rights now; I am talking of the States' duties.

MR. MANN. The tendency of modern times, we can not deny, is toward unionizing—for we should avoid the word "centralizing"—the unionizing of governmental function. As far as interstate commerce, however, is concerned, there is no question of State rights at all, because the jurisdiction has been held to be constitutionally in the Federal Government by the Supreme Court. When Congress

acts in that respect its action is dominant and supreme. So we have this power in Congress over State rates, as far as they affect interstate commerce, and it only remains for Congress to exercise the power which was given it in the beginning; and I am not denying that it might be advantageous because of the tendency, right in the beginning, of States to quarrel with one another, and because of the tendency of one State to seek an advantage over another by State laws.

Senator CUMMINS. It is seriously contended that all State rates affect interstate commerce.

The VICE CHAIRMAN. I concur with Senator Cummins's suggestion. There is no doubt that Congress has the power to regulate every rate that affects interstate commerce, as in the liability law it has been recognized that Congress has jurisdiction over every track that carries interstate commerce; and I suppose, Congress being the ultimate arbiter, that whatever Congress says it will have to be admitted is the Constitution on that particular subject. My suggestion is that it is not necessary to beat around the bush in this matter, but that as to every track upon which interstate commerce moves Congress may regulate the rates and practices. That is simpler than your plan of Federal incorporation.

Mr. MANN. I was for the moment discussing the fixing of rates. It seems to me, as a matter of policy, pure and simple, that Federal incorporation is advisable for the reason I have given, and also because it seems to me it makes Federal control over State rates more practical.

The VICE CHAIRMAN. Well, if you want to simplify things and make things practical, I will say that the power of Congress is plenary over everything in interstate commerce, no matter what it is, no matter if it is a woman with a basket on her arms traveling from one State to another selling eggs. If you want to simplify the matter and make it easy, instead of beating around the bush, let us say that the Interstate Commerce Commission has the power to regulate practices and rates on every track used in the conduct of interstate commerce.

Mr. MANN. Of course, in the case of a railroad that is not physically connected with any other railroad and operates wholly within a State—

The VICE CHAIRMAN. Well, of course, that would not be affected.

Mr. MANN. That might not be in interstate commerce.

The VICE CHAIRMAN. No.

The CHAIRMAN. I shall have to appeal to my brother committee members to adhere to the rule.

The VICE CHAIRMAN. I have not asked a single question. I was following the example of my illustrious chairman in making suggestions whenever they occurred to me.

Mr. MANN. I have this to say, and that is, always bear in mind that our interests and our enlightened self-interests constantly favor prosperous and efficient carriers, properly controlled and regulated; and if it be to the advantage of their prosperity, their efficiency, and their regulation and control that the rates affecting interstate commerce shall be put under the control of the Federal commission, then the answer should be "Yes"; and it seems to me that the question



really carries its answer with it. That seems to be the testimony, as I understand it, of the carriers. I admit that when I was first a neophyte in this work I was much rather inclined to put any suggestion of the carriers on the wrong side of the fence.

I am still very skeptical, and examine into all these things very closely; but, inasmuch as it is my opinion that I am speaking of, you will perhaps bear with me as I say this, that while this idea of Federal control has been more or less brooded about for two years or more, I have held my own mind in abeyance, awaiting for development this way or the other, to see how my mind would determine the matter ultimately, or at least later on, and now I have come to the conclusion that as a matter of governmental policy it is to the interest of the prosperity and efficiency of the interstate railroads of the country that Federal control of all rates that affect interstate commerce should be permitted, and I was brought to that conclusion as much by the hearings in the 15 per cent advance rate case in Washington—which went on for some six weeks and gathered together some six or seven thousand pages of testimony—than by any other incident that has yet developed during these two years, for there was so much that was a subject of conflict or possible conflict or possible future conflict or past conflict as between the State issuance of rates and the interstate rates that the question arose, "Well, what shall be done if the Interstate Commerce Commission finds these carriers are entitled to this advance?"—we were glad to find they were not entitled to that advance at that time because proof had not been made at that time that they needed it—"But if the Interstate Commerce Commission finds they are entitled to that 15 per cent advance on the interstate rates, and if the States shall not agree with that immediately, a conflict between State and interstate rates ensues; or if some States allow it and some do not you have a distinction as between States," and so on and so on.

There were representatives of nine State commissions there in Washington opposing the advance of 15 per cent on the interstate rates. Our commission did not feel that they ought to take sides one way or the other in the question of the discussion of the interstate rates, inasmuch as they would have to pass upon the same situation in the State. They did not seem to want to prejudge the case. The nine commissions did excellent work in the way of demonstrating that the 15 per cent advance was not necessary on the western lines; and I have some very serious doubts in my own mind to the effect that if the Interstate Commerce Commission had allowed the 15 per cent advance in that 15 per cent case that at least these nine States would have denied the advance in the States.

Now, there is an example of interstate and State conflict. Then, furthermore, I may say this, that my studies in traffic have led me to look upon the traffic situation without reference to imaginary lines that divide one State from another or one county from another, or one city from another. The traffic situation is not measured, really and truly, by any of those political lines. The situation, for instance, in Spokane, Wash., is not confined to the State of Washington. It covers the whole inland empire and enters into northeastern Oregon and southern Idaho. The inland empire is the Spokane situation, although there are four State lines running

through it. The traffic situation is not controlled by political lines at all.

And so the rate situation, it seems to me, as far as it affects interstate commerce, should not be controlled by State lines, either. From all these things I came to the conclusion—I am speaking, by the way, personally, and not as the representative of any body or of the Chamber of Commerce of San Francisco—so, I came to the conclusion that in the interest of the situation to which we looked forward—that is, I mean improvement in conditions of transportation—I have come to the conclusion that this scheme of Federal incorporation would be an improvement. In respect to the details, however, of carrying out that Federal regulation, and the establishment of regional boards, I believe that every State should have a representation upon the regional board; for instance, if there were a regional board established for the Pacific Coast States, I should say that there should be a regional board of three and that there should be a member from California, one from Oregon, and one from Washington, because, as every traffic man very well knows, the true solution of a traffic question should only be undertaken by those who are familiar with the many very intimate details of the tariff question, and no one would be familiar with those intimate details—there are millions of them in their branches—except a person who is located and who has lived in the territory in question, and has studied the situation for some years.

I think that is all I have to say, Mr. Chairman.

The CHAIRMAN. Mr. Mann, you have given numerous cases in which the long and short haul clause has been considered since 1910. What is the general result of all those cases thus far? Has there been any substantial tendency toward leveling of rates as between the coast and interior points?

Mr. MANN. Senator, may I ask, do you mean practically or as a matter of law for the future?

The CHAIRMAN. I mean practically.

Mr. MANN. Practically, the rates at the intermountain points are on a lower scale to-day than they were five or six years ago, and the practical differential or difference between the coast rates and the intermountain points is, at this moment, less than the difference was some years ago.

The CHAIRMAN. Now, with reference to the possibility of complete and perfect transportation through the Panama Canal, I understood you to say that the traffic through that canal during the first year of its operation mounted to 1,000,000 tons.

Mr. MANN. Yes, sir; westbound.

The CHAIRMAN. Westbound?

Mr. MANN. Westbound only.

The CHAIRMAN. How many tons eastbound?

Mr. MANN. I think 600,000. That is my memory.

The CHAIRMAN. Can you state at what average price per ton that transportation was moved?

Mr. MANN. No, sir; I can not, accurately, from my examination of the figures, state that, but I would like to refer you, Mr. Chairman, to page 617 of the so-called schedule C cases, decided January 29, 1915, and reported in 32 I. C. C. at page 611, where a table is given of some of these rates carried both by water and by rail.

The CHAIRMAN. Well, do you know whether the average cost was very much less than that of transportation by rail?

Mr. MANN. Yes, sir; the average rate by sea was very considerably less. I will say, than the average transportation rate by rail, and always was and always is. There is always a differential, Senator, between the sea rate and the land rate. Of course, I am speaking generally when I say always, and that differential is measured by the superiority of the rail service. There are a great many things in the water service which make it not so highly desirable as the rail service, such as in normal conditions the rapidity of the transportation, although upon the Panama Canal I have reason to believe that the freight would move from New York to San Francisco in 25 or 26 days, and there were cases in which it moved at less than that, and the average rail movement takes about 20 days, so that differential as between the two services was very much narrower after the opening of the canal.

Then there is a liability of water damage in the case of rusting goods. There is marine insurance, the cost of dock and warehouse services, etc., and those conditions all permit the rail carriers to make a rate somewhat higher than the water rate and still make the rate effectively competitive.

The CHAIRMAN. Now, assuming that during that year there had been enough ships to carry all the traffic that was offered from the Atlantic coast to the Pacific coast—

Mr. MANN. What year was that, Senator?

The CHAIRMAN. That year of successful operation of the canal.

Mr. MANN. Oh, yes, sir.

The CHAIRMAN. Assuming that the transcontinental railroads had not the power to meet that competition by reducing the rates between coast points below the general level of the interior rates, what would the effect have been, in your judgment—could you form an estimate of the tonnage that would have been carried from the Atlantic coast to the Pacific coast under those conditions through the canal?

Mr. MANN. I think it would be very much increased, sir, under normal conditions.

The CHAIRMAN. Can you give me any estimate of what it would have been?

Mr. MANN. I think, under the conditions which you mention, which I understand to be that the carriers are not allowed to make sea-competitive rates, and products may therefore go to the sea without what you call railroad competition—I think that the result would be that all heavy commodities would move by water, and that includes all structural iron and steel and, generally speaking, hardware articles of iron and cotton piece goods, which are what the wholesale dry goods people deal in and which are, by the way, produced mostly in New York and New England, in that neighborhood—that substantially all of the general articles of consumption which the Pacific coast uses would move by the water and that the railroads would be reduced substantially to an express service.

The CHAIRMAN. What effect would that have had upon the income of the carriers?

Mr. MANN. Of the railroads?

The CHAIRMAN. Yes.



Mr. MANN. The effect upon the income of the railroads would have been disastrous. The Interstate Commerce Commission has expressed that opinion in the Southeastern cases, reported in 30 I. C. C., in determining the question of whether or not it should allow the carriers between Chicago and New Orleans to charge less for the longer distance to New Orleans than to the other intermediate points, and they went into a classification there of the figures and came to the conclusion, and so expressed it in their findings, that if the carriers were not allowed to continue these departures from the fourth section they would lose a great deal of money. So, basing my opinion upon that, and also upon the fact that California was served for 20 years by water carriers only—that is, from 1849 to 1869—where we got everything from the East; we had to get everything from the East we used in that period of 20 years—I say, with this highly organized water movement, with our fine steamships with their compartments of refrigeration, in which they can take fresh fruit and vegetables, if they desire to do so (Judge Prouty's statement back in 1909 is proven beyond peradventure of doubt to-day, namely, that the water carriers can carry and do on occasion carry every kind of commodity)—I think the rail carriers would be practically deprived of their coast tonnage, but as to what proportion that coast tonnage is, Senator, to the other tonnage of the country and how much their loss would be I must refer you to the carriers themselves who have those figures, and I have no doubt would gladly furnish them.

But my understanding of the situation is that the movement of tonnage to the coast is not only equal to that of the movement of tonnage to the intermountain points but far exceeds it. Let me state that the witness here on the stand who stated that the tonnage to the coast was shown by the carriers to be only about one-third of the tonnage to the intermediate towns not only slightly exaggerated the tonnage to the intermediate points but referred to an exhibit put in by the carriers at the instance of Mr. Thurtell, in which the carriers show the respective movements of tonnage to California and to western Oregon and Washington, as compared to the movement to eight other States, and eastern Oregon and eastern Washington: in other words, they took in Missouri—most of Missouri—Colorado, New Mexico, and Nebraska. They ran a line down the middle of the United States. Of course, that is a very large territory indeed, and undoubtedly they would continue to serve that territory even if they were denied the privilege of meeting rates at the coast, because there is no water competition in there, and those States must depend on the railroads for their transportation service; but when you take the coast you will find the coast tonnage is so large, no matter what its percentage may be, that the deprivation of the money that they would make out of that tonnage is so great that the carriers would be in a position where they were not making what they are entitled to.

The CHAIRMAN. How would the carriers meet that condition?

Mr. MANN. How would they meet that condition?

The CHAIRMAN. Yes.

Mr. MANN. They would certainly, in my opinion, come to the Interstate Commerce Commission or to such other body as Congress may constitute and show them the facts and figures and say to them,

"Now, we must have our constitutional rights given us; we must have a fair income on the property which is used for the public use, and in order to obtain the income it is necessary to make higher rates to the country left to us."

The VICE CHAIRMAN. If you will pardon an interruption, but have we not accepted an invitation to eat while Mr. Thom speaks at this hour?

The CHAIRMAN. Yes.

The VICE CHAIRMAN. Well, I move that we take a recess now for two hours.

(Whereupon, at 12.30 o'clock p. m., a recess was taken until 2.30 o'clock p. m. of the same day.)

#### AFTER RECESS.

The hearing was resumed at 2.30 o'clock p. m., pursuant to the taking of noon recess.

#### STATEMENT OF MR. SETH MANN—Resumed.

The CHAIRMAN. You were saying that if the transcontinental railways should conclude not to meet the competition of the waterways, by fixing lower rates for transcontinental transportation, that the effect would be a large reduction in the revenue, and that that would be necessarily followed by an increase of rates to the intermountain region, in order to enable these transcontinental railways to get enough revenue to pay their operating expenses and taxes, and a fair return upon their investment. Do you not think that if the railways were practically to surrender to the waterways this transportation which the latter, it seems, can conduct much more cheaply than they, they would be compensated by the local rates from the ports to the interior, because the most of that traffic—all of it, indeed, except that portion consumed at the ports themselves—would have to be subjected to railway transportation in some degree in order to reach the place where it is to be consumed? What is your view about that?

Mr. MANN. To some extent the increase in the locals eastbound might compensate the carriers, but it would be to a very small extent, because the carriers enjoy that same amount of back haul, distributive haul back from the coast, now, and it would not be increased; that is to say, if there are 10,000,000 tons of freight moving westbound to the coast cities now, it is either consumed in the coast cities or consumed in their distributive territory in less-than-carload lots distributed to the consumer. Whether that 10,000,000 tons should go by rail or water would not affect that distribution.

The CHAIRMAN. Do you not think there is a time approaching when the railroad facilities of the country will be so inadequate to meet the requirements of the country for transportation that it will be absolutely necessary to use to the full the waterways facilities?

Mr. MANN. Senator, of course, we can only express our opinions in that regard. I have tried to cover that in my statement by saying that we here on the coast desire to see the utmost efficiency produced in the case of all carriers, whether by land or by sea. If, however, the

condition that you suggest comes about and the tonnage is so great as to require the services of transportation such as would require the operation of the equipment of both land and sea, taken at any given time, the result is bound to be that the increase of water carriage—that is, ships—will be greater than the increase in the capacity of rail carriers, because the sea is free, while it takes a billion dollars to construct a railway from Chicago to San Francisco.

The CHAIRMAN. At present, how is it with reference to products transferred from the ports of the Pacific to the interior: do those products come mainly from the East or are they the results of production here?

Mr. MANN. From the ports to the interior?

The CHAIRMAN. From the ports of the Pacific coast to the interior.

Mr. MANN. I have not the comparative figures. Of course we have great imports from the Orient, which pass through these entrepôt, as Commissioner Lane called them, silks and various things from the Orient, which may be expected to increase; and then there are large shipments made from the ports and also from all other jobbing points in California to-day of the products of the soil and of the forests and the ocean, too, if we think of the canned salmon, and that situation of rates on those eastbound products very fairly indicates the difference that may properly exist between an eastbound and a westbound rate or rate structure. It was held very early in the work of the Interstate Commerce Commission that the measure of a rate would not be necessarily the rate in the opposite direction; or, in other words, because a rate westbound is a certain figure between two points the rate eastbound need not be the same figure; it may be either a lesser or a greater rate, the only condition being it must be nondiscriminatory.

So, in the situation on the Pacific coast, we have an illustration of a schedule or system of rate making which has been the upgrowth of many years, which has adjusted itself to the needs of the people of the United States—not only those on the Pacific coast, but the people of the Middle West and the Buffalo-Pittsburgh, New York, and New England territories. It enables the producer in California not only to sell in all of the markets in the United States at the same figure that his neighbor pays—his neighbor in the State of California or wherever he may be—but it also enables the consumers of the United States to obtain those very necessary products at the same price that their neighbors obtain them, no matter how far removed those neighbors may be. In other words, it is a rate that is blanketed over the State of California and then over the United States. It is very nearly a postage-stamp rate.

The CHAIRMAN. I wish to ask a question in reference to that decision of June 30, 1917. You understand that that decision ignored the contention of the coast cities and was practically a triumph in every way for the intermountain region?

Mr. MANN. I think I might say absolutely.

The CHAIRMAN. It was a triumph for them?

Mr. MANN. It certainly was.

The CHAIRMAN. If that decision goes into effect, it will involve serious results to the coast cities, will it not?

Mr. MANN. Certainly.



The CHAIRMAN. Legislation such as the intermountain region demands would consist in striking out all exceptions to the rule?

Mr. MAXN. We are under the absolute rigid fourth section to-day, as far as interstate commerce is concerned, and as soon as the rates go into effect there will be no departure from the fourth section; in other words, the absolute rigid fourth section will be in effect, and there will not be any need for a change in the statute. Those provisos in the fourth section, containing the exceptions, are, as far as the west coast, the Pacific coast, States are concerned, meaningless as far as any effect is concerned. But we should add that the tariffs involve rates as to which we should be left free and entitled to present to the commission changed conditions as soon as the ships return to the canal, and under those circumstances the rates on sea-borne goods will be competitive rates which the carriers should be permitted to meet.

The CHAIRMAN. You contend for the present legislation upon the ground that it will enable the Interstate Commerce Commission to meet that future condition?

Mr. MAXN. I contend that the present statute, as it now stands, is sufficient and should be allowed to remain.

The CHAIRMAN. And you contend that the advantage of it is that it will enable you to meet that new condition or enable the Interstate Commerce Commission to meet that new condition?

Mr. MAXN. The Interstate Commerce Commission should be in a position to afford relief to the transcontinental carriers to meet that condition when it arises; and my argument is that when they are thus enabled to meet those new conditions when they arise it will be to the best interests of the whole people of the United States rather than to have an absolute long-and-short-haul provision—a rigid fourth-section clause.

The CHAIRMAN. I understood you to say that the result of the action in 1910 by Congress has been to give already to the intermountain region a reduction of rates, and that their wishes will be fully accomplished if the decision of June 30, 1917, goes into effect?

Mr. MAXN. Indirectly, I think, accomplished—that is, a depression of the rates at the intermountain points. I do not wish to be understood as saying that the passage of the amendment to the fourth section of June 18, 1910, instantly brought about or directly brought about the lowering of the rates at the intermediate or intermountain points, but the indirect effect of placing within the hands of the commission the adjudication of this transcontinental situation, which had been taken away from them by the Alabama-Midland case (168 U. S.), that that placing back into the hands of the commission of this power resulted indirectly in the reduction of those rates to the intermountain points; and then, after the decision of the United States Supreme Court came down in 1914, upholding the decision of the commission in the intermountain rate cases, that resulted in the reduction of the intermountain rates, and that, again, was by way of indirection, because it was the result of a decision of the commission, and not, you may say, directly the result of the statute, and between that time a number of voluntary adjustments have been made, all of which lowered rates westbound to the intermediate and intermountain points.

Now, then, as far as the second part of your question is concerned, as to whether the intermountain points will have received all of the relief they have ever claimed when this decision of June 30, 1917, is carried out through the proper processes of the Interstate Commerce Commission, I say, as I understand it, yes; absolutely everything that they have ever claimed will be granted, and there will be no departures to the fourth section, and the rates to the coast will not be any less than the rates to the intermountain points, and in some cases the coast rates will be higher.

As far as the eastbound situation is concerned, we have never heard of any complaints from the intermountain points in that regard. They have never filed any complaints; in fact, there is nothing to complain about, because there is no departure from the fourth section except in the case of rates via the Gulf, which, under a recent decision, were permitted to be put in from the Pacific coast ports to the Atlantic coast ports at less rates than to the intermediate points, and in that case, although there was no complaint from the intermountain points, because they were not affected by those rates, nevertheless the commission took jurisdiction of those rates and ordered compliance with the fourth section, for the same reason and on the same grounds as they are ordering compliance in the westbound rates, namely, because of the interruption of shipments through the canal.

Mr. SIMS. Mr. Mann, if I understood you correctly, in giving a history of this matter you stated that the Interstate Commerce Commission had filed before it about 10,000 applications. Did you mean applications covering about 10,000 rates?

Mr. MANN. No, sir; probably covering about a million rates—10,000 separate applications.

Mr. SIMS. Ten thousand separate applications filed before the commission?

Mr. MANN. Yes, sir.

Mr. SIMS. Filed by the railroads asking that the rates they then had in existence, which would be interfered with by the fourth section as amended, be changed so as to comply with the provisions of the fourth section; in other words, they complied with the order and made applications touching 10,000 rates—

Mr. MANN. Ten thousand adjustments.

Mr. SIMS. My recollection is that you stated that the fourth section was attacked by a suit in court by the railroad companies, contending that it was not constitutional and void.

Mr. MANN. Yes, sir.

Mr. SIMS. And that during the pendency of that suit, the Interstate Commerce Commission ceased to investigate or abated their investigation of these 10,000 proposed adjustments until that suit was decided. Is my recollection correct about that?

Mr. MANN. I think I stated that. If I did not, it is true.

Mr. SIMS. When that suit was brought, was the commission enjoined from action in that matter; was there a restraining order issued preventing the commission from considering applications?

Mr. MANN. Not from considering these other applications.

Mr. SIMS. I mean the 10,000 applications.

Mr. MANN. No, sir.

Mr. SIMS. There was no restraining order?

Mr. MANN. No, sir.

Mr. SIMS. Well, why did the commission cease to consider those applications during those three years?

Mr. MANN. In the first place, I would not undertake to say that they ceased consideration of all or any of them. I do not know, but that is my understanding. But certainly the reason, and a very proper reason, for them not to proceed to consider the 10,000 applications was that it might be a useless waste of time, if the Supreme Court of the United States should decide that those provisions of the fourth section were illegal and unconstitutional, and that the commission had no jurisdiction at all to make any decision whatsoever in the long and short haul cases.

Mr. SIMS. Is it not a fact that nearly all substantive legislation affecting the carriers is litigated as a rule; in other words, it is contested through the courts as to the power of the commission or the constitutionality of the act? Now, what struck me as strange was that an administrative body, directed by Congress to do a certain thing, should, of its own motion, without any restraining order from a court, cease to execute the order under the idea that possibly the act itself was unconstitutional. I did not know that the commission was clothed with judicial powers to determine the constitutionality of any act passed by Congress.

Mr. MANN. They do not. They assume that an act is constitutional.

Mr. SIMS. Then I do not understand there inactivity in this regard.

Mr. MANN. I made that statement based on a statement made to me by an attorney either for the Government or for the commission.

Mr. SIMS. Oh, I am not questioning the accuracy of your statement.

Mr. MANN. I do not want to make it as an absolute statement, because it was simply information to me, but I do want to say that I think it would be most wise indeed for any administrative body or anyone else to wait the decision of a number of cases, when the subject matter or the constitutionality of the act under which the body was to proceed was up for decision before the tribunal of last appeal in this country.

Mr. SIMS. This section of the statute provides that no greater rate shall be charged for a shorter than for a longer distance over the same line in the same direction. That was the normal legislative requirement.

Mr. MANN. I can not agree with you in that.

Mr. SIMS. That was the statute; then there were provisos added making exceptions, and any persons affected by it, in order to avail themselves of not being bound by that act, must show themselves as being within the exceptions; in other words, the thing they ask to do is the exception.

Mr. MANN. I can not agree that that is a normal condition. If you will read the statute as it was originally enacted——

Mr. SIMS. I am talking about the section as it now exists. It provides positively what shall and what shall not be done, but further provides that in exceptional cases the commission may authorize different action.



Mr. MANN. I understood you to use the phrase "it was a normal legislative condition."

Mr. SIMS. I mean the legislation was that they could not charge more for a short haul than for a longer haul over the same line in the same direction.

Mr. MANN. I differ from you in that. The original one said —

Mr. SIMS. I know; it said "under similar circumstances and conditions."

Mr. MANN. The original statute used the words "under similar circumstances and conditions" and provided that in exceptional cases, after a hearing before the Interstate Commerce Commission, the commission might permit exceptions in practically the same way as contained in the present amendment. So the normal legislative condition was the proviso authorizing exceptions from the long-and-short-haul clause.

Mr. SIMS. And the proper action, it seems to me, would be that the commission should make an investigation, and in all cases where it should not appear to the public interest, or for some good reason wherein they might decide that a change or an exception was not proper, they should provide that the carriers should not charge any more for a short haul than for a long haul. The statute reads plainly as to what they shall do, but makes an exception. The general law is now that they shall not charge more for the short haul than for the long haul where it is in the same direction over the same line.

Mr. MANN. I do not conceive it that way.

Mr. SIMS. I wanted to understand your view about the matter. Now, these 10,000 applications, being for exceptional cases, can only be authorized, to be continued in effect, by special action of the commission. The fact that the commission should undertake to treat the exceptions as the general rule instead of otherwise is something which I do not clearly understand.

Mr. MANN. I suppose this is a rule that is proved by the exceptions. The exceptions to the rule are so numerous as to constitute quite a bulwark to that position. I do not know how many there are, but I should undertake to say there are thousands of just such exceptions as that in the State of California permitted by the California commission, and yet we have substantially the same statute.

Mr. SIMS. Your contention is, as I understand it, that inasmuch as the interruption through the canal is temporary that there should be no readjustment of rates based on that temporary condition.

Mr. MANN. Yes, sir.

Mr. SIMS. And therefore you do not think that it was wise for the Interstate Commerce Commission to do what it ordered done by its order of June 30, 1917.

Mr. MANN. Yes, sir; I concur with Mr. Commissioner Harlan in his dissenting opinion.

Mr. SIMS. You agree with him?

Mr. MANN. Yes, sir.

Mr. SIMS. One of the reasons you had in mind, I suppose, is that if, while this traffic through the canal is temporarily interrupted, an adjustment of rates is established throughout the entire country, intermountain and intercoastal, that after business has adjusted itself to such a rate structure, then it will be about as difficult to change

the attitude and change the rates when normal conditions have been restored as it has been to change the rates in this particular instance; in other words, may bring about a further disturbance. And do you coast people not also have an apprehension that if the rates are once changed they will always remain in that condition?

Mr. MANN. No, sir.

Mr. SIMS. That is, after the fourth section is put in full force and effect, after it has been in full force and effect two or three years, the Interstate Commerce Commission will be slow to change it and put it back where it was?

Mr. MANN. I have no reason to fear that. The commission itself invites the railroad companies, in their opinion, to come to them when that change is made. If you will permit me to say it, the commission said in that last opinion (46 I. C. C., p. 236), reading from page 276:

When the water competition again becomes sufficiently controlling, in the judgment of the carriers to necessitate a reduction of the rates to the coast cities to a lower level than can reasonably be applied at the intermediate points, the carriers may bring the matter to our attention for such relief as the circumstances may justify.

Mr. SIMS. They could have done that without that being stated there. They can make an application at any time to change the rates.

Mr. MANN. We might construe it a courteous invitation.

Mr. SIMS. But when the rates are established all over the intermountain country in accordance with the fourth section, without any exceptions, and business adjusts itself to that condition and continues for four or five years, will it not be more difficult to go back to present conditions than if they had never left the present conditions, because being temporary now:—

Mr. MANN. No; and I will tell you why. As soon as these new conditions we are talking about come about, the war having ceased, the port cities will immediately begin to bring in the goods by water on ships through the canal—all the supplies that they need—and there is nothing that is manufactured in our part of the country that can not be obtained from the manufacturers of the Atlantic coast, and it is the Atlantic coast primarily, of course, that will be interested in the shipping to the Pacific coast—accordingly, instantly that will take place—and it will instantly begin to move our goods by the efficient method of the sea, and by the low rates that will prevail by the sea. Under those circumstances, the situations we have described must happen one way or the other. If Congress in its wisdom concludes to retain this fourth section as it is, an appeal will be made to the Interstate Commerce Commission, and the Interstate Commerce Commission assures the transcontinental carriers that they will act with great promptness—

Mr. SIMS. No; that they will consider it. As you read it I did not understand that the commission made any statement that they would do any more than consider it.

Mr. MANN. Those are the words in the opinion; they will act as promptly as possible. The commission says:

It is not our purpose to put upon the carriers any undue hardship \* \* \* will be disposed of with such celerity as the circumstances will permit.

Mr. SIMS. It does not say how they will dispose of it. If that opinion had said that this order was only to last during the absence

of water competition through the canal and later automatically to be restored upon restoration of the water competition. I could see then that would be very effective. But anyway, your idea is this being a temporary matter that you should not adjust your rate structure practically to a temporary standpoint and then take the chances of getting back to what you think should be the situation.

Mr. MANN. And thus have two traffic revolutions.

Mr. SIMS. There have been several applications on the part of the railroads to increase rates on account of the present high prices of labor and material, which are due alone to the existence of the war, and as soon as the war is over we will naturally expect them to be greatly reduced. They asked for an increase of rates on account of a temporary condition. Would you think that the Interstate Commerce Commission, if it now gives an increase in rates due to the temporary war prices, should feel under the same obligation they seem to express themselves in that opinion, to reduce those same rates when the war ceases to affect the cost of labor and supplies?

Mr. MANN. You are asking for my attitude in the 15 per cent cases. I attended all those hearings—

Mr. SIMS. There is another application.

Mr. MANN. Yes; there is another application now pending on the part of the eastern carriers. The southeastern carriers and the southwestern carriers have not yet joined. I must make some qualification of my opinion in order to be understood. I am absolutely opposed to any horizontal or percentage increase in rates because it disturbs all rate relationships. The moment you take any parallel advance, I do not care whether it is an import tariff or taxes, or anything else, you increase the disadvantages. The further distant points must suffer. That is the objection to the 3 per cent tax on freight bills. Instead of making the tax per 100 pounds, no matter what the distance may be, where everybody would be taxed equally, it is made on a percentage basis and is applied in such way that when it is applied to the man with a short haul his taxation does not anywhere nearly compare with the man who has a long haul, and when you advance rates horizontally 15 per cent it works out the same way.

But, coming to the main proposition, as to whether or not the carriers should be entitled to an increase in their rates on the ground of an increase in the cost of materials and service which they are obliged to buy, I say there is no question but that, if they make that proof, they are entitled to a proper increase, preserving, of course, the relationship of the rates. Now, as to its temporary character, no one can tell; that is to say, we can not tell how long these conditions of high prices are going to continue. They may continue for a long time after the war, but that is not the case with respect to the Panama Canal and the operation of ships through it. It is absolutely certain that as soon as the war ends, or very shortly afterwards, the shipping through the canal will be resumed, and nobody denies that as far as I know.

Mr. SIMS. My idea was, it was your opinion—and I am not controverting it—that to remove a temporary trouble that the remedy should be only temporary, and if you increase rates to cover a war condition that they should be, if possible, reduced to the peace level when the war ceases.



Now, if it is necessary for this adjustment of rates to exist in the intermountain territory now, when the canal is in full operation, to apply as a practical remedy a rule of action that depends entirely on a temporary condition, it strikes me as not logical, and it seems to me the result will be, if you once get your intermountain rates regulated to the fourth section, without applying any exceptions, and that if they once get a 15 per cent rate increase, that it will be a long time before you will be able to get the rates back to their former adjustment.

Mr. MANN. If that is the case, there will be a great many more ships moving through the canal, much to the delight of the coast cities.

Mr. SIMS. Suppose this exception were made only to freight coming through the canal to the coast ports, and then let the normal rate apply on goods shipped from the ports into the interior, what do you think of that? In other words, if the railroads are receiving compensation for services which they do not perform: that is, you send something from New York to Salt Lake City and they get paid for an 800-mile haul they do not perform——

Mr. MANN. I heard that spoken of by the man from Salt Lake City, but I do not think that is a fact.

Mr. SIMS. Now, then, if the freight instead of going to Salt Lake City by rail had gone through the canal and come around to San Francisco, and then the railroad takes it up and carries it from San Francisco to Salt Lake City, the railroads would have performed the service and should be paid for it, and I naturally suppose that the rail rate would be added to the Panama Canal rate that the merchant pays. I can see no injustice in that, but I do think that it is unjust for the interior places to pay for a service of several hundred miles that the railroads do not perform.

Mr. MANN. That is a common belief, but it is wrong. Nearly everyone that approaches this subject approaches it with that erroneous idea. They say that if a railroad can carry 100 pounds of any freight from New York to San Francisco for a dollar, why can not it carry it for a dollar to a place several hundred miles inland? Then comes this talk of a back haul, as though the railroads carry the freight back from San Francisco to Reno or Fresno, and they say that when the railroads do not perform a service, they have no right to receive a charge for the service which they do not perform, but unfortunately for the man who advances that proposition, they do not do that. The back-haul charge, as it is called, is not a charge at all. It should not be called a back-haul charge.

Mr. SIMS. You mean there is no back hauling done?

Mr. MANN. No, sir: the railroads do not receive any back-haul charge. The fact of the matter is that the local from the port to the interior points is a part of the measure of competition by water which the carriers meet at that point. For example, suppose we take 100 pounds of freight, which moves here by water at a cost of \$1. It is landed at San Francisco, and you pay \$1 for getting it there by water, and then you ship it to Fresno, and you pay 50 cents to get it there, and your total freight, water and rail, is \$1.50. Now, the rate of the rail carrier to Fresno, for instance, is \$2, and the Interstate Commerce Commission has found that that is a fair and reasonable rate on the straight haul to Fresno. Very well. What is the com-

petition by water that the carrier meets at San Francisco on the one hand and at Fresno on the other? At San Francisco it is \$1. and at Fresno it is \$1.50. and he must meet that competition by establishing rates which will take that traffic or let it go by water. And so it goes on. Your rate is nothing more than a measure of the competition the carrier meets, until you go back far enough to where the lower rate meets the reasonable rate coming from the other direction. Do I make myself clear?

Mr. SIMS. You have made yourself very clear all the way through, as far as that is concerned. When we get a man who can give us information, I have always thought that perhaps it is well to examine him with a view to bringing out all the information he has.

You spoke in very commendatory terms of the State commission laws of this State and of the way in which they are administered. Do you not think it is to the interest of California to maintain such a commission and such laws as it administers?

Mr. MANN. Certainly, sir; without any question.

Mr. SIMS. Now, if it is good for California, would it not be good for every State in the Union to have such a law and such men to administer it?

Mr. MANN. I think that is substantially the case in every State in the United States that has laws somewhat similar to our laws. Of course, I have in mind, when I say this, the very large part of the duties performed by the commission other than railroad matters. Not more than one-fifth of their duties are concerned with railroads, and I have no doubt a very smaller fraction than that would be the correct figure.

Mr. SIMS. I have reference to nothing but railroads, of course. Now, do you or not think or believe that if every State in the Union had a railroad commission law, as far as it affects railroads, affecting intrastate transportation, that it would be to the public interest of the State to have such a regulation?

Mr. MANN. Do you mean do I not think it would be to the advantage of the State to have a law similar to, or as good as, the law of California and an administrative body as good as ours—to have that in every State in the Union?

Mr. SIMS. Would it not be in the interest of the public?

Mr. MANN. That is purely a question of policy. I believe if you had such a situation as that that the difficulties that confront the carriers now would not be so grave as perhaps at the present time; but even then the conditions I have named, namely, the different State commissions, coming to different conclusions with reference to systems of rates, which should be unified, particularly the interstate rates, rates which, if not unified, create discriminatory situations as between one State and another State, bringing about more and more the necessity of these—I think I am not overstating it—these complicated cases under the Shreveport power that are making their way gradually and slowly, in the reasonable handling of the law, to the United States Supreme Court for ultimate decision—

Mr. SIMS. What I have in mind—

Mr. MANN. In this last case, you remember, they found a part of a judgment of the Supreme Court of the State of South Dakota valid and another part invalid.

Mr. SIMS. No one believes more strongly than I do in the unification of service, and especially interstate; but we are dealing with States that are sovereign in some respects, and also with the National Government. You have spoken so highly of the State law of California and of the State commission that I inferred from your remarks that such a condition in every State in the Union would be manifestly in the public interest, and, therefore, that you would not want any general legislation which would destroy this instrumentality.

Mr. MANN. The difficulty there is even if we had such a situation—and perhaps we have, and perhaps I am wrong when I think we have not in every respect—

Mr. SIMS. I think you are right about the California commission from what I know of it.

Mr. MANN. Supposing that is the case. We have even there to postulate this so-called coordination between the State commissions on the one hand and the Interstate Commerce Commission, and I am fully in accord with the statements of Commissioner Edgerton that that, to all intents and purposes, is a meaningless word.

Mr. SIMS. Is it not practically the fact that intrastate commerce and interstate commerce are so interrelated and so easily affected that you can not entirely separate them in the effect which they may have one upon the other?

Mr. MANN. You mean there is no State rate which does not on occasions have some effect on the interstate rate?

Mr. SIMS. Yes.

Mr. MANN. Yes, sir; I think that is true.

Mr. SIMS. Since we have 48 States regulating intrastate commerce and the Federal Government regulating interstate commerce, do you not think that there will be some conflict between the State governments and the national body?

Mr. MANN. It seems to me it is inevitable.

Mr. SIMS. Suppose we adopt this proposition, which has been put forth by the railroad executives—that you have one United States commission with a lot of regional commissions and commissioners—and I believe you thought there should be a man from each State on the regional commissions with the power of appeal from the regional to the principal or central commission, to be located at Washington, that would not deprive a State commission of any power that it can now constitutionally exercise, would it?

Mr. MANN. I can not see that it would.

Mr. SIMS. Then you would get away from, at least to some extent, this conflict?

Mr. MANN. In this section I can not see that it would, because Congress has power to regulate intrastate rates now, in so far as they affect interstate commerce. Until, of course, Congress acts the States are within their rights in acting on those matters.

Mr. SIMS. Do you think they are? You just admitted, though, that you did not see how they could keep from affecting interstate rates, and, therefore, the logical result is that the national power will absorb all power to regulate intrastate and interstate commerce. Do you not think that is logical?

Mr. MANN. I think so.



The VICE CHAIRMAN. I hope you will let me suggest right there that intrastate business, after all, is whatever Congress leaves after it has regulated interstate commerce, and ultimately it will be very little, and State sovereignty does not cut much shine now in a situation wherever the Government undertakes to exercise its three powers, over the post office, commerce, and the Army and Navy.

Mr. SIMS. Suppose we had just such a law in force as proposed by the railroad executives, and the State of California in its own right builds a railroad at its own cost from here to Los Angeles.

Mr. MANN. Yes, sir.

Mr. SIMS. And operates it absolutely free from any freight rate at all, but lets the public taxpayer pay it, would not that be a valid act on the part of the State of California as far as the National Government is concerned?

Mr. MANN. Yes, sir.

Mr. SIMS. And if the State has that power within its own borders as will not only affect its own traffic but interstate commerce, then why has it not a less power, or a power growing out of that power, to appoint an agency to do that which it can do itself?

Mr. MANN. We must take a further step together, Judge, and that is this, that we will say that the State has undoubtedly the power to own and construct its own road, but that it can not have by means of that power or any other power the right to overstep the perfectly complete power which the States have given to Congress, the United States Government, of the control of interstate commerce, and therefore Congress would have control of any rates on such a railroad as far as they affect interstate commerce.

Mr. SIMS. You mean they could control it as far as it affected ocean transportation?

Mr. MANN. If it affected interstate commerce.

Mr. SIMS. The ocean carriers are carrying freight from Oregon and Washington down through the canal to the eastern coast—

Mr. MANN. I think, so far as the western coast is concerned, that it might turn out, possibly, that that rate did not affect interstate commerce.

The VICE CHAIRMAN. The Federal power reaches not only commerce between the States, but among the Indian tribes and with foreign nations.

Mr. MANN. Yes, sir.

Mr. SIMS. Your idea is that Los Angeles and San Francisco are in the same State—

Mr. MANN. That might not affect interstate or foreign commerce. I can not conceive that the rate from San Francisco to Los Angeles ordinarily on freight matters would affect an interstate rate or interstate commerce in any way. If it did, however, it would be within the control of Congress.

Mr. SIMS. The very fact that you admit—I am not controverting your position about it—that when Congress does act the States have nothing to do with it would seem to answer the question, but as a matter of fact the States elect Senators and Congressmen, and these men elected by the States would be very slow in exercising a power which would take away from the States which elected them this power. Is not that true?

Mr. MANN. You mean, do I not think that the Congressmen elected from the States will be a little slow, in conferring this power, to take this power away from the States from which they come?

Mr. SIMS. Yes.

Mr. MANN. Yes, sir; in fact, I think this is a piece of legislative thought that can not be taken up too soon and understood by the people throughout the United States. If you ask my opinion about it, I think it will be years before public ownership can be brought about or this Federal incorporation of railroads be brought about.

Mr. SIMS. Notwithstanding cogent reasons may be urged in favor of it?

Mr. MANN. That is perhaps one of the difficulties of the very distinguished Government under which we live. As you know, J. J. Bryce said, "The thing the Englishman does not understand is the American's double loyalty, his loyalty to his National Government and his loyalty to his State."

Mr. SIMS. Then you think it would be practically impossible to enact this legislation?

Mr. MANN. No, sir; because I have seen legislation come to pass that was not dreamed of four or five years ago. I believe we are living in a time of economic extremes, and perhaps the existence of this European war will open some eyes that have been closed to what we call constructive legislation.

Mr. SIMS. If the proposition was left to the voters of California as to whether they would be willing to adopt any scheme of legislation that would mean the turning over to the National Government the entire right to control these affairs within its borders, do you think you could get many votes?

Mr. MANN. No, sir.

Mr. SIMS. Therefore it looks to me thoroughly impracticable to try to do something that the people will not stand for in advance.

Mr. MANN. At this moment, yes; but the people may become educated in time to an understanding of this situation and to the desirability of simplification and unification of our railroad systems. When they are educated up to it they will vote for it. It took them a long time to get educated to the Australian ballot in this State, yet we have just as good an elective system in the State of California as is to be found anywhere; in fact, I believe they tell us the State of California is a little overprogressive.

The VICE CHAIRMAN. That, however, was only a method of exercising local control and did not involve the idea of surrendering local control.

The CHAIRMAN. It would not have been possible to pass the Federal reserve act 10 years ago.

Mr. MANN. Certainly not.

Mr. SIMS. Do you believe that the people of the United States will readily turn over all their intrastate and interstate commerce to private corporations to perform that service, subject only to the regulation of the national regulating body, however scientifically it may be appearing to do so now?

Mr. MANN. Do I think they will ever do it?

Mr. SIMS. Do you think there is any reasonable probability of their doing it in a reasonable time? The railroads claim they need help now; in other words, there is a condition of suspended develop-

ment in railway service and railway construction, although they are getting more business and gross pay for it than ever before in the history of the country.

Mr. MANN. I think we must enter upon a campaign of education, and our system of government has shown great capacity for education.

Mr. SIMS. I know, but when you get a great State like New York or California that has a way of regulating things in the State through State agencies that are responsible to the State, the education goes both ways; the people of the State begin to think of their losing something; that they have got to give up to the National Government something that is valuable. The old democratic idea, as you know, was to have as little National Government as possible.

Mr. MANN. I can not speak for the people of New York because I do not know enough of the people of New York, but I know they have had some pretty severe scandals with respect to their State control and their railroad body, although they may have very eminent—

Mr. SIMS. There may have been some scandals, and I understand there have been some very large ones in the past in California.

Mr. MANN. Not with reference to the railroad commission.

Mr. SIMS. No; I mean with reference to public utilities.

Mr. MANN. I had reference to the New York Public Service Commission.

Mr. SIMS. I spoke of New York because it is regarded as the first State in the Union, and of California because of its vast area and population and vast possibilities, and being so far removed from Washington, I imagined that the people will be slow in turning loose something they have that is satisfactory in order to try something else.

Mr. MANN. I think you are right in thinking if the proposition came up to the people of California at the present time that they would probably feel that it would be a disadvantage to them, but the people of the State of California have, as I say, shown great capacity for education, particularly if the schoolmaster happens to be some one in whom they have great confidence.

Senator CUMMINS. You must remember New York has just voted for woman's suffrage.

Mr. SIMS. That shows some progress is being made in the East.

The VICE CHAIRMAN. And they also turned out the enemy and elected a Democrat.

Mr. THOM. Will you ask a question for me, Judge Sims?

Mr. SIMS. After hearing your speech to-day, I will do anything for you.

Mr. THOM. I should like to have you ask the witness this question: If the failure to grant the relief to which you have referred and a continuance of this dual authority should result in Government ownership, what would become of the right of the State to control under Government ownership?

Mr. MANN. Well, I will answer that question if I may.

Mr. SIMS. Certainly.

Mr. MANN. I should say under Government ownership the regulation of intrastate commerce undoubtedly would be managed by the Government.



The VICE CHAIRMAN. How could it be more completely managed because the Government owns the property than when the subjects own it?

Mr. MANN. I think when the United States comes to the point of owning the railroads of the United States they will proceed to manage their property in accordance with all the powers that the people of the United States have permitted them to have.

The VICE CHAIRMAN. Do you think they will do any more in managing their own property than in governing the property of their subjects? Will not the Government be made up of the same people and have the same Representatives in Congress, and will not the Representatives in Congress have the same local interests as well as national fealty?

Mr. MANN. Of course, we were discussing the feelings of the voters in the separate States. I think the feelings of the voters in the separate States ought to be predicated on the theory that if they have already authorized, as far as it is necessary for them to authorize, the ownership of railroads, by the United States, that under those circumstances they should not hesitate for a moment to allow the Government to manage its own property in its own way.

The VICE CHAIRMAN. Do you not think that you and Judge Sims are mistaken about your speculations about the education and ignorance of the people?

Mr. MANN. We are not speaking of ignorance, but prejudice.

The VICE CHAIRMAN. You said lack of education; lack of education is one way of saying ignorance. Do you not think the Interstate Commerce Commission could go ahead under the constitutional powers granted the Government and regulate interstate commerce regardless of what it takes away from the supposed jurisdiction of the States? If it goes ahead and exercises its powers under the Constitution, do you not think the people will be satisfied?

Mr. MANN. They have not been given the powers of Congress yet.

The VICE CHAIRMAN. What is the reason they have not? They are authorized to regulate interstate commerce, and whatever they say is interstate commerce is interstate commerce unless the Supreme Court reverses it.

Mr. MANN. Are you referring to the Interstate Commerce Commission?

The VICE CHAIRMAN. Yes.

Mr. MANN. I shall have to differ with you. They have not yet been authorized to take jurisdiction of State rates——

The VICE CHAIRMAN. And they never will be.

Mr. MANN. In so far as their reasonableness is concerned; but in so far as they affect interstate commerce the Supreme Court of the United States has said in the Minnesota rate case that that is a dormant power in Congress and may be exercised at any time. The Interstate Commerce Commission has not been authorized to exercise that power.

The VICE CHAIRMAN. But you are frittering away time on terms. I am talking about principles. The Interstate Commerce Commission is authorized to regulate interstate commerce. The law holds that whatever interferes with interstate commerce they are authorized to regulate, and if they have not the present power Congress can amend the interstate-commerce act and give that power to the

commission. There is no mistake in the system. All we have to do is to perfect the system we have, and if the language in the law is not explicit enough to enable the commission to exercise the full powers of Congress under the Constitution, the best way out of it is to go ahead and amend the act and give them that power.

Mr. MANN. I should certainly advocate legislation along that line. Whether we should go the whole distance or not, I am not prepared to say.

The VICE CHAIRMAN. There is no whole distance to it. If Congress, through the Interstate Commerce Commission, regulates everything that goes on a track upon which an interstate commerce train runs, nobody can say that is unconstitutional at all.

Mr. MANN. No; if they are given the power by Congress.

Mr. SIMS. I suppose you concede that the Government does have the power and the legal right to acquire and own the railroad property of the United States, if it sees proper to exercise it?

Mr. MANN. I have never questioned that.

Mr. SIMS. Now, it is only a question of policy as to whether the railroads should be owned by the National Government or owned and operated, or either one?

Mr. MANN. I think there is no legal proposition involved.

Mr. SIMS. This country has to have transportation, and it is going to have it; and if it does not get it one way it will get it the other, and there is no such word as "fail" in the United States, and especially in the State of California.

Mr. ESCH. When Judge Prouty decided, or wrote the opinion in 1909, he acknowledged existence of water competition, did he not, on the Pacific coast?

Mr. MANN. Yes, sir; and he found it to be a fact.

Mr. ESCH. He found it to be a fact?

Mr. MANN. Yes, sir.

Mr. ESCH. At that time the water competition you did get on the Pacific coast had to come around the Horn, or by rail across the Isthmus of Panama, or over the Tehuantepec route?

Mr. MANN. I do not think that route was perfected.

Mr. ESCH. That is what I wanted to know—whether in 1909 the Tehuantepec route was in operation.

Mr. MANN. I do not think so.

Mr. ESCH. Then the American-Hawaiian Line was not using it?

Mr. MANN. No, sir; they were coming around the Horn by steamers.

Mr. ESCH. So, if that Tehuantepec route had been in existence in 1909, it would have greatly added to Commissioner Prouty's decision that there was water competition?

Mr. MANN. Yes, sir; because when the Tehuantepec route came in the amount of tonnage moving that way largely increased.

Mr. ESCH. I am not familiar with the fact, but the American-Hawaiian Line shipped from Honolulu to the Pacific coast terminals, and then by way of the Tehuantepec route to Atlantic terminals?

Mr. MANN. That has been very generally the course according to my recollection; during the time of their steamer lines, at any rate. They had a contract, and they are still carrying out part of their contract at a loss under present prices, in moving sugar from Honolulu to New York, and they came with a load from New York around

the Horn to the Pacific Ocean and later over the Isthmus of Tehuantepec to the Pacific Ocean to Los Angeles and San Francisco, Portland, and Seattle, and then they went across to Honolulu and loaded sugar, and then very often went straight to New York. They might have returned and have taken some cargo from the ports eastbound.

Mr. ESCH. Then, when he wrote his decision, in 1912, there was still greater force to his argument—

Mr. MANN. Yes, sir; because of the increased tonnage and increased number of ships, etc.

Mr. ESCH. And, of course, in 1912, he anticipated the speedy construction and operation of the Panama Canal?

Mr. MANN. Yes, sir.

Mr. ESCH. And it became operative in the fall of 1914.

Mr. MANN. Yes, sir; August 1, 1914.

Mr. ESCH. What did you say was the tonnage the first year through the canal?

Mr. MANN. One million tons, westbound.

Mr. ESCH. Westbound?

Mr. MANN. Yes, sir.

Mr. ESCH. The westbound is a little in excess of the eastbound?

Mr. MANN. Yes, sir.

Mr. ESCH. Of course, it is not a fair estimate now of the traffic through the canal, because it is largely used in connection with the traffic to the west coast of South America—

Mr. MANN. Our reports of activities of the Panama Canal are they are equal to or greater than any other year. The ships are going around the world through the canal. The canal is an extremely busy waterway.

Mr. ESCH. I understand it is estimated that 5,000,000 or 6,000,000 tons a year pass through the canal.

Mr. MANN. Yes, sir.

Mr. ESCH. So, when peace comes, with the increased merchant marine there will be actual water competition between the Atlantic and Pacific ports?

Mr. MANN. Yes, sir; I can not see any other possibility. I can not see any way in which these ships can be used if they do not go into the canal business. It seems to me that there will be many of them that must operate in that business.

Mr. ESCH. Your opinion is that if that goes through there must be an increase in the intermountain rates, as compared with the terminal rates?

Mr. MANN. That is probable unless the carriers are permitted to indulge or engage in the water competitive traffic, because while they will continue to bring freight to the coast under the proposed high rate, lifted to the level of the intermountain points, or higher, during the period of the absence of shipping through the canal, the cars of the railroad carriers will be empty as soon as the ships come back into this traffic unless the rail carriers are allowed to meet those rates.

Mr. ESCH. There is another phase of the inquiry that has not been adverted to yet, and as this is a Pacific coast question and one with which the members of this committee have to deal, I wish to address to you an inquiry; it is in reference to the Pacific coast protest against the method of determining tonnage under the canal rules. I under-



stand the Pacific coast has protested against the method of measuring employed. What have you to say in support of that protest, in view of your local conditions, etc.?

Mr. MANN. It is a little difficult for me, Mr. Esch, to recall at the moment—

The VICE CHAIRMAN. The protest was in reference to lumber.

Mr. MANN. Oh, yes; but there is still another matter involved there; but if you refer to lumber, I think I can state that. By the way, that involves a point about Government ownership. It is this, that Government employees, clerks and ordinary administrators—and you will find them in the Internal-Revenue Office or the custom-houses, or as they operate on the canal—are called upon to interpret a rate regulation. The tendency always is on the part of a man to interpret it in favor of the Government and to collect a higher charge rather than a lower one, if the question involves the application of a higher or lower rate, as the case may be. That is true, of course, with the railroads and their clerks, but an appeal is rather quick and prompt and can be instantly closed, whereas with respect to governmental affairs there is always a great deal of “red tape.” It occurred that when the canal was opened our lumber dealers—and of course that is one of our large products on the Pacific coast—in shipping through the canal found they were charged by the people on the canal for the measurement of the lumber that they carried on the decks of their steamers, and a lumber vessel in carrying lumber customarily loads the decks, for reasons of loading which pertain to lumber, and because lumber can not be conveniently, or perhaps at all, loaded into the hold, and the vessel can not be loaded to its capacity unless it carries a deck load.

The VICE CHAIRMAN. You mean it can not carry weight enough without a deck load?

Mr. MANN. You can not carry a full seagoing cargo.

Mr. ESCH. The dimensions of the timber are such that it requires a deck load?

Mr. MANN. Yes, sir; and that matter was settled in this way. That was during the administration, I think, of Gen. Goethals. The statute provides—rather, it may have been the order of the President under the statute—that tolls shall be collected on either the basis—

The VICE CHAIRMAN. The net registry.

Mr. MANN. The net registry or the cargo tonnage. This measurement is what I am talking about—that the tolls should not exceed \$1.25 per net registry ton.

The VICE CHAIRMAN. That is right.

Mr. MANN. That was the maximum made by the presidential proclamation, and the result of this charge upon the lumber and the lumber on the deck was to impose a charge—although I believe it was \$1.25 that was the regular charge—was to impose a charge of more than \$1.20.

The VICE CHAIRMAN. When they measured the deck load and applied \$1.20 to it it made more money than it would have made if you applied \$1.25 to the net registered capacity of the vessel.

Mr. MANN. Now, there is another matter of adjustment in connection with that situation, of which I am not instantly familiar,

but it is this—and I think it has to be adjusted through—I forget the name of the officer, but the man in charge of the marine there in Washington, who determines the method of measuring ships—

The VICE CHAIRMAN. Chamberlin.

Mr. MANN. Yes, sir; there was this objection—and of course it was a matter of some complaint and was immediately appealed—that the American measurement was not the same as the English measurement, and therefore that the American vessel—a sister ship of an English ship, built in the same plant and of exactly the same net gross and cargo tonnage—the American ship would have to pay more than the English ship, because of the difference in systems of measurement. I understand that, too, has been settled. I had some correspondence with Senator Phelan, and also with a man who has been making some protests on these lumber vessels, from which it appears that the objection has been corrected. So I understand that matter is off the boards.

The VICE CHAIRMAN. The biggest trouble at the canal about measurement was not about your lumber complaint, although that became very conspicuous on account of the contention about it. The big trouble down there and the reason we wanted to amend the law so as to enable the canal authorities to enact their own rules of measurement, was that those bulge-bottom ships, which were driven out of the Suez Canal, were being used here. That is where the great loss of measurement came in. Mr. Esch and I had the matter up with the Secretary of War and he readily agreed that, as far as the lumber matter was concerned, he was willing to amend the rule; that it was an infinitesimal part of the business, being not more than 6 per cent. I informed Mr. Humphreys and others, representing the Pacific coast in the lumber matter, what the Secretary of War said, and Mr. Kitchin, leader in Congress, agreed to let the matter go over and not amend it now, but I believe that will be amended so as to satisfy the Pacific coast. We are anxious to amend the law so as to enable the Panama Canal officials, like the officials of the Suez Canal, to meet their own trouble.

Mr. MANN. Of course the statute or the orders could be amended, or stated so as to permit a charge for a deck load of lumber.

The VICE CHAIRMAN. Nobody wants to make a person pay an additional cost for a long piece of lumber that can not be put in the hold of the vessel. The truth is that the Government needs those long pieces of lumber with which to build ships.

Mr. MANN. Yes, sir.

Mr. ESCH. You stated that the class A rates were outside of any of the long and short haul protests—they did not involve any violations?

Mr. MANN. Yes, sir; in other words, they do not depart from the absolute rigid fourth-section rule.

Mr. ESCH. They can be ignored, as far as that rule is concerned?

Mr. MANN. Yes, sir.

Mr. ESCH. You say household goods is an illustration of the class A rates?

Mr. MANN. Yes, sir.

Mr. ESCH. Is crockery within the class A articles?

Mr. MANN. I do not know; but I referred in my statement to such articles as chairs, bedding, desks, etc. Furniture, I perhaps should

have said instead of household goods. I would like to amend my statement to "furniture." It is schedule A instead of class A.

Mr. ESCH. What is there in that particular commodity that would justify the carriers in putting it into that schedule?

Mr. MANN. Because it does not move ordinarily by sea; it is too inconvenient. Of course, it can move by sea, and does occasionally.

Mr. ESCH. Why—because it is breakable?

Mr. MANN. Yes, sir; it is more liable to sea damage and involves great expense in packing it so as to avoid injury at sea through the tipping of the vessel, and it is more convenient to have it go by rail than to go through the trouble of packing it. The rates are often made with respect to weight or measurement, and of course a bulky article like furniture would take up more space than other closely packed commodities.

Mr. ESCH. There is no continuity in my interrogatories: but you have expressed your views on some other matters, and I should like your views on taxation in connection with the matter of Federal incorporation. Do you think the Federal Government should occupy that field?

Mr. MANN. In the case of Federal incorporation?

Mr. ESCH. Yes; if it adopts a plan of Federal incorporation, should it fix the standard of taxation for the whole country, leaving the administration to the States, or leave the entire matter to the States?

Mr. MANN. I will have to admit that I have not given that subject any very deep thought, and my opinions on that matter are very inchoate at the present time. I think, of course, the subject is worthy of the most careful investigation, and really I would want to make some study of it and consult with taxation experts on a subject of that kind.

Mr. ESCH. It has a very material bearing on account of the jealousy of the several States in retaining control over taxation. I will not pursue the inquiry if you are not ready to express your opinion of it.

Mr. MANN. I fear I can not be of any assistance to the committee in that regard.

Mr. ESCH. Very well; I have no further questions, Mr. Chairman.

Senator CUMMINS. I desire to say, not merely in compliment to Mr. Mann, but as a reason for the examination that I shall pursue, that he has laid before us a statement which in its lucidity, in its breadth, and in its temper has not been excelled by any I have heard upon that subject.

Mr. MANN. I thank you, Senator.

Senator CUMMINS. And it is obvious that he has opened up a subject vastly more comprehensive than the relation between the railway rates applicable to Intermountain States and the Pacific coast. I feel sure that the questions I am about to propound are within our inquiry, however. You understand that we—I say "we"; I mean the committee and Congress—are dealing with a system of regulation and not with rates?

Mr. MANN. Yes, sir.

Senator CUMMINS. It is our mission to ascertain, if we can, in what respect the system we have is inefficient, and to suggest remedies for



the inefficiency. I want you to eliminate, Mr. Mann, from the questions I will ask you from time to time, all consideration of the regulations of foreign commerce, for while we are given the same authority with regard to foreign as we are with regard to commerce among the States, theoretically and practically our power with regard to foreign commerce is far short of our power over internal commerce.

Mr. MANN. Yes, sir.

Senator CUMMINS. It is perfectly clear, is it not, that it is necessary for the welfare and safety of the United States that the system of railway transportation or land transportation shall be complete and adequate in every part of the country?

Mr. MANN. Certainly.

Senator CUMMINS. And no matter what it costs, we must maintain, not only for peace but for war, a system of railways that will afford full communication between all parts of our country. That is perfectly clear, is it not?

Mr. MANN. Yes, sir.

Senator CUMMINS. It is clear, too, as it seems to me, that in view of the vicissitudes of water transportation that the railways of the United States must be able at all times to reasonably accommodate all the traffic between the eastern and western parts of the United States.

Mr. MANN. When you say "at all times," Senator, there are emergencies that may happen sometimes which may throw an unsuspected, or what might be called an accidental, burden upon the transportation of the country.

Senator CUMMINS. I endeavored to put in my question the flexibility that you have in mind by saying "reasonably"—reasonably serve all parts of the country at all times.

Mr. MANN. Yes, sir.

Senator CUMMINS. I recognize that there may be days or weeks or months in which the facilities of railway transportation may not be sufficient to meet completely a sudden emergency.

Now, with that as a postulate, we have the beginning point, anyhow, that the railways of the United States must be maintained so that they can fairly do the business of the United States, if communication between the various parts of the United States by sea is cut off.

We have seen that water transportation, as between points in the United States, may be substantially prevented, first, by natural causes, such as the filling up of the canal, or by other causes, such as war, in which event we are compelled to rely not only for the movement of traffic but for the movement of troops and various impedimenta of the Army and Navy upon land transportation. Do you recognize, Mr. Mann, that it is the duty of the Government in regulating and controlling the transportation in which its people are concerned that we should attempt to reach the same end that we would reach through Government ownership?

Mr. MANN. Well, I suppose, if the Senator please, that the end that we wish to reach is, of course, the best practical result that can be brought about irrespective of the method.

Senator CUMMINS. I think my question was not as clear as it should have been. I do not want to draw you into any discussion of the controversy about Government ownership of transportation

facilities, but the end of all regulation of these facilities must be the public welfare—the interests of all the people of the United States.

Mr. MANN. Yes, sir.

Senator CUMMINS. And if we choose to pursue in the future, as we have pursued in the past, the policy of committing our transportation to private instrumentalities, that does not change the ultimate object to be secured, does it?

Mr. MANN. Certainly not.

Senator CUMMINS. And in dealing with the problems which arise out of competition between water transportation and land transportation we ought to consider all the time the welfare of all the people, should we not?

Mr. MANN. By the welfare of all the people, meaning, of course, the greatest good to the greatest number, etc.

Senator CUMMINS. It is a common expression that conveys a definite idea, although it is rather indefinite in its phraseology.

Mr. MANN. Yes, sir.

Senator CUMMINS. Suppose that the United States, Mr. Mann, owned all its land transportation facilities and operated them and owned all its water transportation, or the facilities of water transportation, between points in the United States. Do you think that the Government should continue the competition of which you have spoken between the land transportation and the water transportation?

Mr. MANN. I certainly do, on the same proposition that the departments of a department store, all owned by one owner, are in very competitive competition, all striving to see which one can sell the best and sell the most goods, etc.; in fact, emulation is the very essence of life, just as discontent leads to unhappiness.

Senator CUMMINS. Of course, I do not recognize the parallel that is evidently in your mind between the various departments in a department store and these various branches of transportation.

Mr. MANN. The Government would own both. The department store owner owns all of the departments and turns over these various departments to different managers, and there is that rivalry between them which is the very essence of efficient business.

Senator CUMMINS. Assuming the Government has all the railways, and they are developed to a point where they can meet the needs of the people, both in war and in peace, it has these water-transportation facilities between certain points in the United States; it must maintain the land transportation for reasons we have seen. Now, it would not permit the water transportation to be carried on in such a way as to destroy the efficiency of the land transportation, would it?

Mr. MANN. Of course, Senator, that was one argument made against the Pacific Mail Steamship Co. operating through the canal when it belonged to the Southern Pacific Co. on the ground that the Southern Pacific could afford to lose a lot of money on the water transportation, which did not involve very much money, in order to make money on the rail transportation facilities, which represented a billion dollars. That would be the case, I think, where you have the ownership of those two means of transportation in the same proprietor.

That is the reason the Panama Canal act gives the Interstate Commerce Commission the power and duty of investigating all railroad-owned steamship lines which may come into competition with the

railroads. When the Government would have control of both of these facilities, I think the Government would endeavor to perform the best possible service for the best possible price that it could perform under the circumstances relating to each method of transportation. So, I believe they would say to the water carriers, if they owned them all, and forbade anyone else coming through the canal in the coastwise commerce, they would say, "What does it cost you; what do your manifests and freight bills show; what do you make a year? Let us see if the rates are right," and I think they would allow and make rates upon the basis of that cost of service, with a fair and proper surplus over to take care of depreciation and the like, and then, with respect to the rail carriers, I think they would perform just exactly the same method of competitive rate making at the ports where they met their own ships, and then make the same arrangements on the rest of the country, simply because it is sound and it is economic. It will encourage each line to do the best it can, because the emulation between the two lines will be bound to bring up the service and because, in the end, perfect justice is obtained and no injustice—that is, no unjust discrimination, no improper or prejudicial discrimination—is worked, and each community is taken care of, just as it ought to be taken care of if that kind of rates is made scientifically.

Senator CUMMINS. I remember the problem about the Panama Canal of which you speak, but there we were considering a case where part of the transportation facility was governmentally owned and part privately owned, and different considerations entered. But you would not believe, would you, that if the Government owned all the railroads that it would permit any competition between them with regards to business?

Mr. MANN. I certainly do.

Senator CUMMINS. What kind of competition?

Mr. MANN. Competition with the water routes.

Senator CUMMINS. I am speaking of railways alone.

Mr. MANN. I think they would find that the short-line competition ought to be met by the long line coming around to the same point, and that higher rates might be charged at intermediate points.

Senator CUMMINS. I am not saying that they might not charge higher rates to the intermediate points than to the longer distant points. I am not bringing that question in at this time.

Mr. MANN. I thought you meant land competition.

Senator CUMMINS. I was speaking about land competition alone. If the Government of the United States owned all the railroads, would it fix the rates with any reference to the earning capacity of any particular railroad?

Mr. MANN. Any particular one of the Government-owned railroads?

Senator CUMMINS. Yes.

Mr. MANN. In some cases yes, and in some cases no. That is a very complicated situation and a tremendous one to consider for a moment. The idea of sitting down and thinking out any kind of rules and regulations by which you can construct schedules for all the railroads in the United States is certainly one that even our greatest traffic man would want a great many months to work out. In some



cases I can see where there are meritorious but weak roads where the Government would probably charge the same rates that are now being charged on those roads and lose money, and in doing so make it up on the larger roads, and under those circumstances that is one argument in favor of the unification of the railroad systems of the United States so that the strong can take care of the weak and vice versa. I have in mind one particular road, the circumstances of which were developed in the last 15 per cent case. That was the Bangor & Worcester Railroad in Maine. The president of that road went on the stand before the Interstate Commerce Commission and made his statement, and it was an impressive one, and the witness carried credence, and his statement was that as to his road 75 per cent of the traffic was lumber and food products, one of the products being potatoes, which were at that time greatly in demand, and I believe he testified that during the period immediately preceding that time potatoes were being transported from his territory as far west as Chicago.

We all know that the demand for potatoes last year was so great that the central part of the country was calling upon all sections of the country for its supply. He was charging rates which, according to all competitive circumstances and conditions that surrounded all the rest of the whole United States, prevented his getting any more—he was getting all he could get—and he could not get any more unless some other railroad was allowed to have more, and yet his condition was pitiable as far as coal was concerned, because while he was paying \$3, or something like that, for coal from the mines up to Bangor, the bad weather of wintertime had made it impossible for the barges and tugs to reach from Philadelphia to Bangor, and the result was, instead of having 100,000 tons of coal in his yard, which he considered the margin of safety, he had run down to 7,000 tons, and was obliged to go into the so-called wholesale market and pay \$10 a ton, and he furnished a statement showing he had bought coal at that price, and the result was that his road was on the rapid road to bankruptcy, and yet it was a facility of transportation that, from the governmental standpoint, was an absolutely needed transportation facility. He was furnishing food and lumber to the extent of fully 75 per cent of the tonnage he carried.

Your question brought that to mind, and I should say under circumstances like that, under conceivable governmental ownership of important roads, at least, that the Government would not make its rates in accordance with the expense or cost of operation, but would undoubtedly, in some cases, charge less than the cost of service, just as it does in the operation of the mails.

Senator CUMMINS. I have no doubt about the general soundness of the suggestion you have just made, but I did not intend to get into such detail. If the Government owned the railroads—and I do not intend to say that it should; understand me, I am not arguing upon that proposition at all, and I express no opinion about it—but suppose it owned the railroads between the Atlantic and the Pacific coasts; it establishes rates upon some fair and just basis to the terminal points and to all points between. You said, and I think truly, that the Pacific coast could not claim in and of its own right lower rates than intermediate points; that the carrier only can claim those rates on account of its necessities. Now, it finds, then, that if it

persists in those rates, that its business to the Pacific coast will be taken away by a water competitor. It has complete control of the water-line competitor, either through ownership or through regulation, for our power is just as great over one as the other. What would it do? Would it drop the rail rate in order to meet the water rate, or would it raise the water rate?

Mr. MANN. It would drop the rail rate to meet the natural water rate, because it would be unsound economically and inherently unjust to all the people of the United States to collect more than the fair value of the service performed by the Government for its citizens by way of the water route.

Senator CUMMINS. And that only because it would be for the best interests of the entire country?

Mr. MANN. Yes, sir.

Senator CUMMINS. Each kind of transportation should be permitted to be carried on the basis of the cost of service——

Mr. MANN. Not exactly on the basis of the cost of service. I venture to say that if the Government of the United States should take over the control of the means of transportation by water or land transportation that the Government of the United States would develop a system of tariffs remarkably similar to those existing throughout the United States on the railways. The fact is that since the war commenced and since the War Board has been established in Washington we have had a demonstration of the possible unity of the railroads of the United States as a whole, and inasmuch as the function of the railroads has been mainly service instead of rates we find, taken as a whole, the schedule of rates of the railroads of the United States are what might be called very fairly arranged with respect to the checks and balances which each and every particular condition or circumstance may bring into play with respect to those rates, and that is one reason why the change in any particular schedule affects rates, not infrequently, in a great many far-distant points, and therefore the United States, if it took over the railroads to-day, I think, would accept the schedule of rates in the country just as they are without making any material changes in them.

Senator CUMMINS. The Interstate Commerce Commission seems to have been rather busy throughout all these years in adjusting the rates.

Mr. MANN. It is a remarkable fact that any study of the Interstate Commerce Commission's work will show that they have in all, or practically all, great schedules accepted the plans of the railroads. That is what they did in the intermountain cases. They established zones, which is a pure railroad invention, and Chief Justice White, in writing the opinion, bases the power of the Interstate Commerce Commission on the mere ground that the intention of Congress was to give to the Interstate Commerce Commission the power to regulate rates and fix rates that the carriers had established before, and, inasmuch as the carriers had fixed zones before, therefore the Interstate Commerce Commission could fix zones.

Senator CUMMINS. I do not want to get into a controversy over the justice of railroad rates. I do not agree with you about that. I think in many instances they are very illy adjusted, although I

recognize that to change them materially would overturn conditions that have grown up through a long series of years.

Mr. MANN. That is the point exactly.

Senator CUMMINS. But they are very unjust according to my opinion. I am not saying that the aggregate of the rates raise too much or too little revenue.

Mr. MANN. I do not want, either, to express too much admiration for the railroads' system of rate making. I have had a great many objections to it and have raised some of them.

Senator CUMMINS. I come back to my original point. You insist that in the contingency that I have suggested, where there was no financial interest of the carriers to be observed or secured, that still the good of the whole country would require that the rates that are in competition with the water rates should be lower and the water line be permitted to charge whatever it saw fit to charge.

Mr. MANN. I will not say whatever it saw fit to charge. If the water line were owned by the Government, and the Government should proceed to control, my point is this, that it would be uneconomic and contrary to the principles of equity and justice to permit their water carrier, or, we will say, to continue to operate a water carrier and charge to the public that uses that water carrier once and a half or twice or three times as much as the ordinary rules with respect to rate fixing would justify.

Senator CUMMINS. We must not forget the original premise of the matter, that it is the duty of the Government to maintain, or be allowed to maintain, this system of railways at a high state of efficiency, and the only reason for decreasing a reasonable rate from one coast to another is that it must be decreased in order to get the business. That we assumed. It is your opinion, notwithstanding its obligations to keep up the railroads that we must drop the rate at the competitive point to the disadvantage of the carrier?

Mr. MANN. To the disadvantage of the railroad.

Senator CUMMINS. To the disadvantage of the railroad, in order to what? To allow a certain community to avail itself of the lesser cost of water transportation. That is what it all comes to, is it not?

Mr. MANN. No, sir; it never comes to that in my mind at all. I do not think there is any situation with respect to rate making in this proposition that can be said to be favorable or preferential, whether made by the Government or made by the carriers, to the water points or to the seaboard points, and in addition to that I wish to say that I can not see that we can, in conceiving Government ownership of transportation facilities, place the railroads owned by the Government in a proprietary position as against the steamships owned by the Government. The steamships owned by the Government would be performing a public service and would be serving a very large number of communities besides San Francisco. They probably would operate, as far as the coast is concerned, commencing at Boston and stop at New York, Philadelphia, Baltimore, Charleston, and Mobile, with branch lines from New Orleans and perhaps the branch lines reaching up the Mississippi River to Chicago, taking on a cargo at that point and then bringing that cargo through the Panama Canal, and they would serve the coast ports mentioned and probably transfer the cargo for the Orient, and on the return journey



make the same trip, and, in fact, that very line of work is suggested by the actual rates published and the actual way port calls which have been made by these very carriers.

Now, under these circumstances, these publicly owned water lines, operating through the canal and between the two coasts, would be serving perhaps as large a portion of the public of the United States as these transcontinental rail carriers would serve. So, under the circumstances, I should not say that we should, as a Government, prefer the railroad carrier, and say now we are going as the Government to arrange matters so that the railroad carriers can make as much money as the conditions will justify, and the water carriers shall make still more than they might ordinarily be justified in charging in private ownership, or, in other words, would be charging the people of the United States for their service by water, one and a quarter or one and a half or two or three times as much as the same people would have to pay if the ships were retained in private ownership. I do not think the United States would do that.

Senator CUMMINS. I will not put either the railroads or the steamships in a primary position or in a preferential position. I am assuming a common ownership of the whole, and in order to afford an illustration, and to get your views more completely, let us assume that all transportation facilities of the United States, including these water lines, reaching from one town in the United States to another, are owned by one single corporation.

Mr. MANN. Yes, sir.

Senator CUMMINS. So that there is no competition, so far as the capital invested is concerned.

Mr. MANN. Yes, sir.

Senator CUMMINS. Do you not think that under those circumstances the corporation would divide the freight and allot a certain part of it to be carried by water and a certain part to be carried by the land?

Mr. MANN. Yes, sir; I am sure it would run the water carrier in such a way as to help the land carrier, but I do not think the United States Government would be controlled by such an instinct.

Senator CUMMINS. I am assuming that the United States Government would be as solicitous for the general welfare of the country as the corporation would be for the general welfare of its stockholders.

Mr. MANN. I can not see that the illustration is a parallel. The United States Government has taken steps in connection with the Panama Canal act to prevent just that thing.

Senator CUMMINS. I am not quarreling with that policy, but I think you agree with me that if the entire transportation facilities of the country are in the hands of one corporation it would not meet the situation that you have described by lowering the terminal rates. It would allot or divide the traffic to be carried, would it not?

Mr. MANN. I really think it would do that thing which it considered was to bring the most money into its pocket. Just what that would turn out to be I can not foreshadow or foresee. It is a condition that we are imagining.

Senator CUMMINS. Purely.

Mr. MANN. And which can never exist.

Senator CUMMINS. Through regulation we are trying to build up the entire country and give to each community that which it ought

to have, and afford transportation as a whole at the least reasonable cost.

Mr. MANN. The ownership illustration aptly illustrates the danger of the abolition of competition between the carriers.

Senator CUMMINS. I can easily see that, but when you substitute for a selfish corporation—that is, a corporation desirous of making as much money as possible—a corporation that desires simply the general welfare, then there would be no such danger, would there?

Mr. MANN. You mean the United States Government?

Senator CUMMINS. Yes.

Mr. MANN. The United States Government, considering only the general welfare, would not be justified in asking the citizens to pay once and a half or two or three times what the service was worth because it moved by water.

Senator CUMMINS. Suppose that the railway companies, in order to secure all the traffic which their lines would carry, did not find it necessary to reduce the terminal rates in order to meet the water transportation? What would you say then as to the wisdom or justice of reducing those rates below the intermediate points?

Mr. MANN. You say if they did not find it necessary?

Senator CUMMINS. Yes.

Mr. MANN. And could get all the business they wanted?

Senator CUMMINS. Yes.

Mr. MANN. That would mean the water transportation costs as much as the rail transportation, and that is not the case.

Senator CUMMINS. That means there is more transportation than the water can bear or will bear.

Mr. MANN. Yes; I think that is always so. Perhaps I did not understand your question. I understood your question to be, if the rates of the water transportation at the points of competition were such that the carriers could continue to carry their rates, grading up from the coast, and still get their share of the business, what would be the condition? I say that the condition there would be that the carriage by water would be equally as expensive as the carriage by land, and under those conditions, and only under those conditions, can we expect that to ensue. At the present time carriage by water for any material distance has been accepted to be a transportation of less cost than any other form of transportation. One great reason for the difference in cost is that there is no investment in tracks or rights of way, and therefore we can hardly expect to see the time when transportation by water will be equally as expensive as that by land.

Senator CUMMINS. You, therefore, I infer, are of the opinion that without regard to the financial necessities of the railways this country will be better built up and better served by giving to those localities which are affected by water transportation and water rates lower costs or charges than to other portions of the country?

Mr. MANN. Well, put in that way, I might answer in the affirmative; but I would like to say, in addition thereto, that that arrangement of competitive charges at the ports should be considered as a part of the general transcontinental rates and schedules of the carriers.

Senator CUMMINS. Now, the result of that would be, if carried to its logical end, the development of both borders of the country

and the underdevelopment of the central part of the country, would it not?

MR. MANN. It would; and it is a fact that there is not a big city in the United States that is not served by water, and there probably never will be—or in the world, one might say. There might be some manufacturing communities, very prosperous and populous ones, too, but when you compare them with the great cities you will find they are situated on the water.

SENATOR CUMMINS. I do not think you understand my question in the way which it was asked. There comes a time, or you reach a point presently, where the cheapness of water transportation added to the land transportation for distribution ceases, does there not? You reach a point both east and west—

MR. MANN. Where the water transportation plus the land transportation equals a normal rate?

SENATOR CUMMINS. Suppose you wanted to ship goods from here to Pittsburgh, the lesser cost of transportation between here and New York by water would be absorbed by the cost of transportation from New York to Pittsburgh, and it would be no less, and probably greater, than the cost of transporting your goods from here to Pittsburgh, direct by rail.

MR. MANN. Yes, sir; there is a point where those two rates meet. There is a point where the sea combination plus the rate inland to Pittsburgh, or wherever the points may be, meet the direct rates by rail across the country.

SENATOR CUMMINS. That is what I meant by saying if you are to give full effect to competition brought about by the lesser cost of the water transportation, you will find a narrow strip of country on both sides of the country thoroughly developed and a very wide stretch of territory very inadequately developed.

MR. MANN. That will lie generally along the line where the intermountain people are situated; but in the East, where the population is so great and development so large as the result of so many years, that strip has disappeared. It has practically disappeared, like the boundary lines of two towns that have grown together. The fact of the matter is that the natural advantages of these coasts are just the same; that is, the advantages of the west coast and the east coast are just the same, with reference to ocean competition, and it is true that that strip that our friends love to call the back-haul territory is the territory in which the water competition is really felt. That is where it is felt, and it is felt through that strip up to the point where, as you say, the rate coming in the other direction meets it. But there is an interior part of the country which, by the way, is also served by water, where we have the great cities of Chicago and St. Louis, all served by water, and which, again, are not only using the water, but, of course, are great manufacturing centers and distributing centers, and they have created about them an immense territory for distribution, and so they are reaching out both east and west.

There is a strong competition between Chicago and New York in the intermediate territory to-day, and one is getting a little farther toward the other one day and the next day the other encroaches closer to the other. In this territory we have the same situation, except



we have great deserts, and we have not developed to the same intensive extent as the eastern part of the country, and probably never will. Nevertheless, we have the same development of commerce, and we find Chicago and New York by water, and Chicago by rail, and St. Louis reaching out into this country, trying to get all of it; and we have got the intermountain part of it a great deal, and they do distribute to the Missouri River and beyond, much to the disgust of the Missouri River. Kansas City and St. Louis are full of complaints about the rate situation, contending that they are getting the worst of it, both coming and going. That phrase in traffic, by the way, really belongs to Mr. Maxwell, of Denver, because he happens to be situated just on that edge which you have described. He pays the most of anybody; but that is a result which, I insist, can not be corrected, because nobody can correct it. If you pass an absolute fourth section, we will bring goods into this territory through the canal and distribute it through the back-haul territory.

Senator CUMMINS. My questions have not had in view the proposed amendment to the fourth section, making it rigid. I have in view the policy of regulating all the carriers of the United States; and that leads me to ask you, Do you believe we ought to begin regulation in the way of fixing rates on water transportation?

Mr. MANN. No, sir; I do not.

Senator CUMMINS. Why should we not regulate water transportation as completely, at least, as we regulate land transportation?

Mr. MANN. For this reason: That the railroads are exercising what is sometimes called a natural monopoly. They are using the right of eminent domain, a governmental power and authority, and by virtue of that right of eminent domain, and in some cases of grants of public land, they have constructed tracks and purchased rights of way, and have produced an investment—well, I used “a billion dollars,” and we might as well continue to use that as any other figure—that seems to be the modern custom and fashion. The sea, on the other hand, is free, and a sea carrier is exercising no right of eminent domain and exercising no monopoly at all, because there can be no monopoly of the sea. Any individual with a small amount of capital may charter, under ordinary circumstances, a ship, we will say, for \$100,000 and perform a journey over a route which costs nothing, where, if he would conduct a railroad between the same points he would have to invest a billion dollars. So there is no monopoly principle or characteristic in a ship, or in a regular shipping line, or in any shipping situation, but, on the other hand, there is a monopoly characteristic in the railroads. Now, it is the monopoly that must be regulated, not necessarily or at all, in my opinion, the ordinary exhibition of commercial or other activity, but monopoly; and wherever we find monopoly we must beware of its power, and therefore we must be careful to control its power, and thus we should regulate it.

Senator CUMMINS. We have been discussing the source of power, and not the wisdom of exercising it, it seems to me. You do not doubt we have the same power over water transportation within the United States or to and from points in the United States that we have over land transportation, do you?

Mr. MANN. I do not doubt it at all.

Senator CUMMINS. It has been the policy of the United States to regulate it by excluding all but ships of American registry in the Panama Canal.

Mr. MANN. That is, in the coastwise traffic.

Senator CUMMINS. Having the power, the only thing, as it seems to me, that we should consider is, Ought we to exercise it in order to benefit the people of the country?

Mr. MANN. Yes, sir; that is what I had in mind.

Senator CUMMINS. The reasons which you are giving probably apply to the wisdom of exercising the power, namely, there is free competition on the sea and there can not be on the land.

Mr. MANN. Yes, sir.

Senator CUMMINS. If we find the free competition on the sea actually injures the people of the United States, you would have no doubt we should enter that field of regulation?

Mr. MANN. One might say to that, if the time—remembering the “if” all the time—that is, if you find it injured. I do not think it is.

Senator CUMMINS. Suppose we should find that the rates by water are too high, and we found that competition upon the sea did not reduce the rates to a fair point; should we not reduce them?

Mr. MANN. I do not think so. I do not think it is good governmental policy to interfere with a situation which is open to free and untrammelled competition. I think the competition there should be left to take care of itself; in other words, I do not believe in extreme cooperation. I believe in leaving a large freedom of competition, which, to my mind, appeals as that freedom which is so cherished by our Government to their people.

Senator CUMMINS. That is all.

#### STATEMENT OF PERCY POWELL, OF SPOKANE, WASH.

The CHAIRMAN. Please state your name, giving your residence and occupation.

Mr. POWELL. Percy Powell, Spokane, Wash., representing the Spokane Merchants' Association and the Spokane Chamber of Commerce, and the Boise Commercial Club.

I have been very much interested in Mr. Mann's statement to-day, and agree with him in a great many of the statements that he has made. I think my principal disagreement with him will be in the point of omission rather than in commission: that he has overlooked, in my opinion, a number of points that are vitally important in this matter. Our interest is in the amendment to the fourth section. We believe it is vitally important to the welfare of the western portion of the United States at least that an absolute long-and-short haul clause be enacted.

The city of Spokane is located 342 miles from the Pacific coast. We are served by the Northwestern, the Northern Pacific, and the Chicago, Milwaukee & St. Paul from Seattle and Tacoma, and served by the O.-W. R. & N. and the Portland-Seattle Railroad Co. from Portland, Oreg., and are served from the east by the Great Northern Railway Co., the Northern Pacific Railway Co., the Chicago, Milwaukee & St. Paul, and by the O.-W. R. & N. Co. in conjunction with the Union Pacific, and by the Spokane International, owned and controlled and operated in connection with the Canadian Pacific.

I was very much interested in Mr. Wade's testimony yesterday, from Oakland, Cal., regarding the relief that had been accorded to Spokane by the Interstate Commerce Commission in the last 20 years and to the intermountain territory. I might state that prior to the construction of a transcontinental railroad into this territory the principal transportation of commodities was by water carriage from the Atlantic coast to the Pacific ports and thence inland by any means of transportation at hand, which was by ox teams sometimes, pack trains, and a portion of the way by inland waterways by boats. When the rail carriers were constructed through this country their initial system of making rates was to meet the water rate they found in existence from coast to coast at the Pacific port plus whatever premium they could secure on account of better services in the nature of quicker delivery of goods and less damage and handling charges, and in making the rate to our territory of Spokane they took the Pacific coast terminal rate plus all or a very large portion of the back-haul rate.

Now, that system has been followed out and is practically in effect to-day. In some of the readjustments they have charged the full coast rate plus certain percentages of the back-haul rate. In other instances they have charged us a portion of the terminal rate plus the full back haul. They vary that, but the principle is practically the same. The Interstate Commerce Commission was created by Congress, I believe, in about 1887 or 1888. In 1889 the shippers of Spokane, a city at that time of approximately 25,000 or 30,000 people, filed a complaint before the Interstate Commerce Commission against what they claimed was unjust and undue discrimination against them in the matter of charging this exceedingly high rate for the short haul as against a low rate for the long haul, and, in 1890, I believe it was, the commission rendered a decision favorable to the Spokane territory, directing the carriers to put into effect rates on which the rates to Spokane would not exceed 82 per cent of the coast terminal rate. The carriers did not publish and did not put into effect those rates, and the Interstate Commerce Commission, it seemed, at that time had no authority to enforce their rulings, and the order was ignored absolutely.

In 1896 the shippers of Spokane entered suit in court against the railroad company to compel compliance with this decision, to compel them to put into effect rates on which the charge would not exceed 82 per cent of the coast rate, as ordered by the commission. That was in April, 1896. That decision was rendered in September, 1896, by the judge of the circuit court, denying Spokane's claim upon the ground that it would cost the Northern Pacific Railway Co. too much revenue, as the Northern Pacific Railway Co., against which this complaint was filed, was at that time in the hands of a receiver. About this same time, in the fall of 1898, the Supreme Court of the United States, in a Georgia case, decided that the Interstate Commerce Commission did not have authority to fix rates, and for that reason that finished our complaint at that time.

I would call your attention to the point that Mr. Mann and Mr. Wade both mentioned. They cited numerous cases where the Interstate Commerce Commission had rendered decisions favorable to the intermountain points, but in no instance did they mention the dates



on which these decisions became effective, and practically every one of these decisions in our favor has resulted as the first: for one reason or another the effective date was delayed, and not one since 1889, 28 years ago, has ever gone into effect in full. Some portions seem to have gone into effect and others not at all.

In 1904 the shippers of Spokane, very impatient with what they considered an unjust discrimination, organized a boycott on the two northern lines there that they considered were the lines that should take care of their community and diverted practically all of their business to the O.-W. R. & N. Railroad. That boycott had been in effect hardly a month when a number of leading shippers were invited to a conference with the railroad officials at Chicago, and the shippers did go to Chicago and attended the conference and discussed the compromise and agreed to the compromise, the effect of which, I believe, was to give what the claimed to Spokane a distributing territory of 100 miles. It would permit them to ship goods from eastern defined territory to Spokane and distribute them 100 miles along the coast at a rate that would be equal to the carload rate through to the Pacific coast terminals and then the local back 342 miles.

Soon after this went into effect, in 1905, the Hepburn Act was introduced, giving the Interstate Commerce Commission the power to fix rates. The Spokane interests had a delegate at Washington in the interest of that to assist wherever possible to get the passage of that bill. It did not pass at that time, but in 1906 the Hepburn Act was passed, giving the Interstate Commerce Commission authority to fix rates, and the Spokane case was case No. 1, filed immediately upon the passage of that act, protesting against these discriminations we had suffered from for all those years.

The VICE CHAIRMAN. The Esch-Townsend bill was the one reported in 1905. The Hepburn bill was not reported. The Esch-Townsend bill was passed by the House, but not by the Senate. The next year the Hepburn bill did pass.

Mr. POWELL. This hearing to which I referred started January, 1907. A decision was rendered, as I have it, in that case in June, 1910. The commission proposed new reduced rates for this intermountain territory.

Now, you will please understand that I, in referring to Spokane, mean what is styled the Spokane territory or inland empire. We have not asked at any time for any rates or concessions at Spokane that did not include all of the intermountain territory similarly situated, like Walla Walla and towns similarly located. I do not know that we included Salt Lake by name, but we included all communities similarly situated. The commission was uncertain as to what effect its new rules would have on the earnings of the carriers, and as a matter of precaution they asked the carriers to take this basis of rates as proposed by them and apply it to six months business, selecting the six months previous business, and figure it to let them know what decrease it might mean in the earnings of their road, as it would be carried back for quite a distance—nearly to St. Paul on some items. This was quite a task and took some time, but the carriers submitted those figures, and the commission at that time decided it would not materially injure or decrease the earnings of

the roads, and; as I understand, were ordering these rates and did order them into effect, but before these rates went into effect the Hepburn Act was again amended. So that annulled that decision which had been granted and the rates did not go into effect.

Mr. ESCH. You mean the amendment of 1910?

Mr. POWELL. Yes, sir. In 1911 a decision was rendered by the commission, which has been quoted before your body here, stating that no higher rate than the terminal rate should be charged to the intermediate points on traffic originating in what is known as Missouri River territory; that the rate to the interior might exceed the terminal rate from the Chicago territory by 7 per cent; from the Buffalo-Pittsburgh territory by 15 per cent; and from the New York territory by 25 per cent, ordering the carriers to prepare tariffs in compliance with this and get them into effect. This is the decision that was rendered in favor of Spokane, again being one that did not go into effect, the carriers taking it to the Commerce Court, complaining that the commission had exceeded its authority; that they had no authority whatever to name rates on a zone basis and to divide the country into zones; and also attacking the constitutionality of the amended portion of the fourth section, and I think you are familiar with that. This order did not go into effect for something like four or five or six years, but representatives of practically all transcontinental carriers serving that territory met with the shippers before this case was taken to court, and after the decision had been rendered by the commission and put into effect another compromise schedule of rates that were some reductions over those in effect at that time but not as low as those prescribed by the commission, and I might say that the shippers who met with the carriers and agreed with the railroads on the compromise merely while the matter was contested in the courts were very severely criticized by the people there, who thought we should stand on our rights, and our counsel, who had been handling our matters for years, refused absolutely to sign the agreement or to be a party to it.

This was heard by the Commerce Court, and that, of course, consumed some little time, and the Commerce Court upheld the contention of the railroads.

This, then, was appealed by the Government to the Supreme Court of the United States, and you are more or less familiar with the condition of the docket of the Supreme Court of the United States. It was very much behind and a great deal of time was consumed there, and before rendering the decision in this case the Supreme Court asked for a reargument of the case, and it was delayed there for some time, but they finally reversed the Commerce Court, and the carriers were then ordered to put into effect those rates as provided by this 1911 decision. Now, this decision was rendered, but before the matter got through the courts it was 1914. At that time the carriers appealed to the Interstate Commerce Commission from their former decision and stated substantially to this effect: That this order was written four or five years ago. It had been through the courts, and it had taken a great deal of time; and while it was undoubtedly a just and proper order at the time it was written, such a time had elapsed and conditions had changed so materially that it

was not then a reasonable order, and they asked for a reopening of the matter and a rehearing of the case. They said:

The canal is now open. This is October, 1914, and we need and require further relief than is permitted by this order.

A hearing was held on that, I think, in the fall of 1914. A decision was rendered, however, in April, 1915, and the Interstate Commerce Commission did give the carriers additional relief, so that this order, even after going through the Interstate Commerce Commission, the Commerce Court, and the Supreme Court of the United States, still was never put into effect. It was modified before it could get through the hands through which it was necessary for it to go in order to get into effect. The relief offered on this was directly on what was described to-day as Schedule C items, which are items, as explained by Mr. Mann, which are subjected to water competition and move in greater competition by water. I think the tariffs named specific rates on these Schedule C items and when they were to go into effect, but they were based on terminal rates not to exceed 75 per cent of the back-haul charge. That was the maximum. The carriers could make it as much lower as they might desire. That was in April, 1915.

In October, 1915, or about that time, the canal was closed by the big slide, and, of course, all steamers then in the coast-to-coast business were withdrawn from the service at the time.

Immediately after withdrawing them from the service practically all the boats formerly engaged in that service were chartered for service for long periods of years—not for a short time—pending the opening of the canal again, but for long periods of time. The rates had been so depressed by the low rates that the rail carriers had been naming to the Pacific coast terminals for a period of years that the business was not particularly profitable to the boat carriers to encourage them to continue in the business, and when they were put out of business temporarily by the slide they seized an excellent opportunity to receive considerably higher rates, largely due to the war, for a considerable period of years.

It is our belief that had this coast-to-coast business been sufficiently remunerative the owners of the boats would not have chartered their boats for such a length of time and abandoned this coast-to-coast business that they had been handling for a number of years and where they had their regular lines established.

When it came to our attention that these boats were chartered for a number of years we felt we were unduly and unjustly discriminated against for a long time; we did not understand why we should pay any higher rate on any commodity, because we felt that the water competition on the coast-to-coast business would not be resumed for a number of years at least. Our counsel went to Washington and took the matter up with the Interstate Commerce Commission and suggested to them that it was provided by this act, and it was the intention of Congress in passing this act that the Interstate Commerce Commission should take notice of changes of conditions from time to time to adjust conditions and grant relief from the long-and-short-haul clause as the conditions might change, and requested of the commission that they, on their own volition, issue an order to the carriers to appear and show them to what extent, if any, they



were at that time entitled to relief from the absolute long and short haul clause. The commission refused to do that. We felt it was the duty of the Government commission, provided for our use as well as other people's, and for our protection, to do that. They refused absolutely to do that, and after we were assured finally they would not we were obliged to draw up and file a formal complaint against the carriers and filed it with the commission, requesting that they reopen schedule B and schedule C, both of which schedules show we are paying much higher rates for the short haul than the long haul. After some time the commission consented to reopen schedule C, but refused absolutely to reopen schedule B. They appointed early hearing dates on this schedule C, and on June 5, 1916, they issued an order in which they stated there was no water competition on the business from coast to coast at that time, and had not been for some months past, and in their opinion there would not be for some time to come, and ordered the carriers to put these schedule C items into schedule B, canceling the special relief they had given them on these commodities when they had reopened the case after it came from the Supreme Court of the United States.

The effective date of this order was made—this was June when they ordered the tariffs filed, and that the discriminations should be removed—it was September 1. Now, prior to September 1 there was very serious complaint, which came, I believe, as Mr. Mann explained, from all over the country and a hearing on this complaint was held before the suspension board in Washington, and it was very largely attended by the shippers from over a large part of the United States asking that the effective date be further postponed. As I remember, they wanted that done for commercial reasons: that a large number of jobbers, etc., had entered into a large number of contracts for future deliveries based on the rates then in effect, and they claimed that an advance in the coast rates would cause them great loss and the suspension board did then grant a suspension of the effective date of that order until December 1, and on December 1 there was an advance of 10 cents per hundred to the Pacific coast terminals put into effect on schedule C items.

Now, this is one of the great things that were mentioned by Mr. Wade particularly, by which the discriminations against the interior points have been lessened. You will bear in mind that the discrimination was lessened not by lowering our rates or reducing the cost of the commodities moved into our territory, but by increasing the rates to the Pacific coast terminals.

On September 9, 1916, we filed another complaint with the Interstate Commerce Commission, claiming that, due to the absolute absence of water transportation between the Atlantic and Pacific coast terminals, all discriminations should be removed. We asked for that in our March complaint before the commission, and they would not at that time open schedule B, but did open schedule C. While they stated in their June order that water competition did not exist at that time and had not for some months past and would not for some months to come, they did not order the carriers to remove the discriminations even on schedule C items. We filed a protest then asking a removal of the discriminations in schedule B or schedule C, or any item on which we might be charged a greater rate than the Pacific coast terminals, as water competition did not exist at that

time. The commission held a series of hearings at that time extending from Chicago to Seattle, Salt Lake City, and other cities, closing in Spokane. On June 30, 1917, they issued an order to the carriers that all discriminations be removed at these intermountain points and that new tariffs be prepared and filed, so that this might become effective on October 15, 1917. The carriers prepared such tariffs, and they removed all discriminations by increasing all Pacific coast rates where the discrimination existed, and, as has been stated before, that applied to almost every tariff, and in some instances reached not only the Pacific coast rates but the intermediate rates, which was clearly not contemplated in the order of the commission.

Mr. SIMS. Did they raise the intermediate rates in order to equalize the rates with the Pacific coast rates?

Mr. POWELL. The Pacific coast rates were lower, but they evidently figured they needed additional revenue, and they did not raise the intermediate rates as much as the coast rates. They were obliged to eliminate all discriminations, and in the tariffs prepared at that time none of the rates to the interior points exceeded the rates to the coast. That was ordered on October 15, and along about October 13 the effective date of that order was suspended pending a further order from the commission. The reason for that has been explained. The commission is now holding hearings on that order on the tariffs. Our counsel is attending a hearing in New York this week, commencing on the 5th, and is due in Chicago on the 12th and in Portland, Oreg., on the 21st. We do not know when these rates will become effective, if ever. We are very doubtful, if at all, when we may get them, although these rates have been under consideration for some time, and the commission should be in a position to render a reasonably early decision, although it constitutes almost a revolution in every Pacific coast and intermountain rate structure, and it is likely to consume a great deal of time.

I am going into this to show and demonstrate to you the efforts that have been put forth by these communities to obtain relief under present laws and laws existing for the past 28 years and to show you the success we have had, and I desire to show you the position in which it leaves us at this time.

In this last order of the commission they have stated that there are 115 commodities in this list on which they have ordered the carriers to remove discriminations, that they stated are products of the soil, and such products as the carriers should not be permitted at any time to have relief from the fourth section. As stated by Mr. Mann, the commission has suggested that if conditions should change, they may appear and show the change and get relief, but they would never grant relief on those 115 commodities. We infer from that they should never have had relief from them, and they also stated that never again will the carriers, with their consent, be permitted to name rates so low to the coast terminals as to make the business there unattractive and unprofitable to the water carriers.

During the 28 years we have been pursuing this proposition we have never had one single order that has been put into effect within a reasonable time, and while it is very discouraging, at the same time we are so fully convinced we are right in the matter that we are still persistently after it.

The VICE CHAIRMAN. You think the reform we need is something that will produce action on the part of the commission?

Mr. POWELL. Absolutely, if there is to be relief in the commission on matters of this nature.

The VICE CHAIRMAN. You know we have passed two expediting measures already.

Mr. POWELL. It was the impression when the Commerce Court was created it would expedite matters, but it seemed to delay instead of expedite, and we have tried everything within our power and we have come to the conclusion that there is nothing that will solve the problem except an absolute long-and-short-haul clause, and we are prepared to show, to our satisfaction at least, and I believe yours, where an absolute long-and-short-haul clause is necessary, and also where it will not work an injury to the coast cities nor to the carriers.

We feel, as was stated by Mr. Mann, we have no personal or petty jealousies in this matter. We believe that people located on navigable waters and the ocean have an advantage from that water that should not be taken away from them and could not be taken away from them if we desired to. If the fact that they are located on the water is an advantage, we think they should enjoy that advantage to the utmost and to the fullest, and we believe in enjoying that advantage they should encourage water transportation, if it is valuable to them, and should have it performing a service instead of running it out of existence, and we wish them to do that.

It is not necessary here, I think, to try to show to you there is no water competition at this time, because I think that is acknowledged by everyone. This has given you some idea of the strenuous efforts we have been making to remedy our position.

I wish to cite you some rates on one or two commodities, not that you are considering freight rates, but to show the discrimination that exists, after all these years, and where the discrimination exists. Here is a typical item, canned goods, a product of the soil, fruits, and vegetables. They move both westbound and eastbound. The rate on canned goods from New York to Spokane is \$1.10 per hundred and the minimum is 60,000 pounds. The revenue on a car of canned goods from New York to Spokane on that minimum is \$600, whereas the rate to the Pacific coast, which is 85 cents a hundred with the same minimum, produces a revenue of \$510, the rate to Spokane earning \$150 more than the rate to the Pacific coast. The carriers earn \$150 more by dropping that commodity at a point 342 miles closer than the Pacific coast point of destination. This revenue is divided as follows: The lines east of St. Paul on the Pacific coast traffic receive \$180.38 and the lines west of St. Paul receive \$329.62. On the Spokane traffic the lines east of St. Paul receive \$180.38, which is identically the same amount they receive if the car goes through to Seattle or the Pacific coast terminals, and the lines west of St. Paul on that same traffic receive \$479.62. Now, whether this car of canned goods is subject to water competition or not, the eastern lines, or the eastern carriers, deliver that car from New York to St. Paul at exactly the same rate.

The VICE CHAIRMAN. It seems to me you need some local control to make your own local roads behave themselves in the West.

Mr. POWELL. The excess freight we pay on those goods is paid the western line that hauls the car from St. Paul to Spokane, and Com-



missioner Prouty and in fact all the orders of the commission have stated absolutely that water competition does not exist between St. Paul and Spokane. The basis of their 7, 15, and 25 per cent decision was figured out on the water competitive basis: that if there was water competition from New York, which there was, perhaps, as far as Pittsburgh-Buffalo territory, and even as far as Chicago, that it had at least exhausted itself when it reached St. Paul, and yet we are paying \$150—every dollar of it—from St. Paul.

From the above it will be noted that the lines east of St. Paul receive the same proportion of the through revenue on the Spokane traffic as they receive on traffic destined to the Pacific coast, while the lines west of St. Paul to Spokane receive as their proportion \$150 per car more on the Spokane traffic than they receive on the Pacific coast traffic, yet the haul to Spokane is 340 miles less.

We are taking a car of canned goods. The same classification moves east in large quantities, such as canned salmon and canned fruit and vegetables. The canned goods rate from the Pacific coast to New York is 72½ cents per hundred pounds, and the rate from Spokane to New York is exactly the same, and I would call attention to the fact that the rate from Spokane or from the Pacific coast terminals is the same to any intermediate point, 72½ cents per hundred pounds as against \$1.10, the Spokane rate, and 85 cents, the coast rate westbound. The rate is blanketed eastbound. The back haul zone that the carriers claim to exist on the Pacific coast, in the intermountain territory here, that enabled the carriers to charge for the short haul a higher rate than for the long haul, does not seem to exist along the Atlantic seaboard at points the same distance in the interior. As I say, this rate is blanketed eastbound. This car will move at 72½ cents per hundred pounds from any of these points through to Chicago, the Buffalo-Pittsburgh territory, or Rochester or New York City, all at the 72½ cent rate. We have figured out the differentials eastbound to see what revenue the carriers get. The lines east of St. Paul receive \$156.38, and the lines west of St. Paul, on the Pacific coast traffic, receive \$278.62, \$100 more than they receive on Pacific coast traffic, yet the haul to Spokane is 340 miles less.

Now, on this car of canned goods, moving eastbound, the car will move from the Pacific coast to St. Paul for \$278.62, with a \$50,000 pound minimum, yet, westbound, they will haul that car of canned goods from St. Paul to Spokane and charge \$179.62, a difference of \$201.62. They charge the same at Spokane as for the Pacific coast haul, for hauling eastbound. From Seattle or any Pacific coast terminal to St. Paul it is \$278.62, and hauling the same car westbound they charge \$329.62.

MR. SIMS. Is that over the same line of railroad?

MR. POWELL. The same line exactly and the same commodity and the same minimum.

MR. SIMS. Is it more expensive to haul one way than the other by reason of topography or grades?

MR. POWELL. No, sir. It is a haul of about 1,900 miles. One of the arguments the carriers have given the shippers during any time they have discussed this matter with them, or a justification, is the fact that their movement of empty cars at all times was westbound;

that they had more tonnage eastbound than west, and they had to haul the empty cars westbound to take the commodities east. Well, these figures show that to haul the cars loaded westbound, they are charging us \$201.62 more than to haul it eastbound, and yet they are hauling cars eastbound all the time. They are not endeavoring to haul them loaded westbound. They are hauling them east for practically one-half of what they are hauling them westbound.

Here is an illustration of this situation: From New York to Chicago, 910 miles, the eastern line gets 21.2 cents per hundred; from Chicago to St. Paul, a distance of 412 miles, the carrier gets 8.8 cents per hundred. It is delivered at St. Paul to the western line, and they will haul it through to the coast, a distance of 1,822 miles, for 55 cents per hundred, and they charge us to Spokane, a distance of 1,471 miles, 80 cents per hundred, as against 55 cents for hauling through to the coast, and this is one of the items that the commission has entered in their list as being a product of the soil, and as to which relief should not be granted, and they have indicated they will not grant relief.

Now, here is another illustration: We have taken steel. I will state that we have taken these rates since the advance has gone into effect on the coast, December 31 last. Prior to that time the discrimination was 10 cents worse than at present. The rate to the Pacific coast from Pittsburgh, Pa., is 75 cents per hundred, with a 60,000-pound minimum, yielding a revenue of \$150, and the rate to Spokane from the same place, with the same minimum, is 97½ cents per hundred, yielding a revenue of \$585, and that is a difference of \$135 more than we pay on that car of structural steel for hauling it to Spokane as against carrying it through to the coast. This revenue is divided as follows: The lines east of St. Paul to the Pacific coast receive \$158.63, or 26.4 cents per hundred, and the lines west of St. Paul to the Pacific coast receive \$291.37, or 48.6 cents. On the Spokane car the lines east of St. Paul get \$158.63, or 26.4 cents, exactly the same as they get if the car goes on through to the coast, and exactly the same condition exists as on canned goods, the lines to the west of St. Paul receiving \$126.37, or 21.1 cents per hundred. It will thus be noted that the lines west of St. Paul to Spokane charge 22½ cents per hundred pounds more and receive a revenue of \$135 for a similar minimum car more for a haul 340 miles shorter than to the Pacific coast.

Now, mention was made here yesterday, I believe, of the export rate on structural steel, and there has been quite a large movement of that recently, and the carriers voluntarily have put in and published a rate, in Northern Pacific Joint Tariff No. 2375-C, from Cleveland, Ohio, of 30 cents a hundred through to the coast, as against 97½ cents if the car stops at Spokane.

MR. SIMS. That is more than three times as much.

MR. POWELL. Yes, sir; and it is a voluntary rate of the carriers and not a commission-made rate.

Now, we have there taken the structural steel rate to Butte, Mont. The mileage to Butte is 2,008 from Pittsburgh, and Butte is about 750 miles from the Pacific coast, which is about 350 miles farther inland than Spokane. The rate on structural steel from Pittsburgh to Butte, Mont., is \$1 per hundred. It is higher than the Spokane

rate, and the revenue on that car is \$600 for a haul of 2,008 miles. Just to give you some idea of the revenue they are getting—the shorter the haul here the greater the charge—they will haul a car from Cleveland, Ohio, to the coast, a distance of 2,591 miles, and obtain a revenue for the car of \$180, and they will haul a car from Pittsburgh to the coast for domestic use, a distance of 2,702 miles, for \$450; they will haul a car from Pittsburgh to Spokane, a distance of 2,351 miles, for \$585, and when it gets to the short haul to Butte, Mont., 2,008 miles, they charge \$600, and all this excess is paid to the western lines.

I understand—I can not state it as a fact—the western traffic managers and the eastern traffic managers have had several serious conferences over this division of business. The eastern men are not entirely satisfied with the split they get.

The VICE CHAIRMAN. I thought the road originating the traffic usually took the lion's share. What you have just stated is the reversal of what I have always heard.

Mr. POWELL. They are not doing that here.

Mr. SIMS. Have you figured out to see if the rate gets higher further back?

Mr. POWELL. I do know of more extreme cases, as testified to by Mr. Blakely, the assistant traffic manager of the Northern Pacific Railway Co. before the Interstate Commerce Commission, who testified that if they were obliged to put in terminal rates on the intermediate territory, it would mean a scaling back of the rates to within 20 miles of Minneapolis. Of course I do not assume many commodities are as badly out of line as that, but they will check back for a very great distance. Discriminations exist clear back through Montana, and on some items into the Dakotas.

I shall not burden you with a lot of specific rates. I have just mentioned these merely to exemplify the situation.

Mr. SIMS. Will you state the railroads' reasons for making those charges—say, for instance, that Butte, Mont., rate of \$600?

Mr. POWELL. Judge Prouty asked the traffic manager of one of the northern lines at Spokane how they arrived at the basis—how they got at it—and I believe he stated finally that they did not have any regular system but got all the traffic would bear. I do not think that is generally true, but it appears to be the case in a number of instances. Butte is far enough back from the Pacific coast so that they can not possibly claim water-borne goods can be distributed back that far. There is no water influence; but I presume they have been getting that in years past, and the shippers have not made any complaint.

Mr. SIMS. I do not know but that there might be some considerable shipments involved.

Mr. POWELL. I do not know why they should charge Butte that much.

The CHAIRMAN. If the order of June 30, 1917, had become effective, would the result have been satisfactory to Spokane?

Mr. POWELL. It would be satisfactory to this extent, that it would remove all discriminations, and that was practically all we asked.

The CHAIRMAN. Would Spokane have been satisfied with the result which would thus have been brought about? The result would have



brought about an increase in the terminal rates without a reduction of the intermediate rates, would it?

Mr. POWELL. Only partially satisfactory. It would be satisfactory in so far as it removed discriminations. We have expected all the time that the discriminations would be removed to quite some extent by lowering the intermediate rates and not advancing the terminal rates, and particularly were we surprised to find that some of our rates had been advanced, and if it had not been our belief that it might have delayed the effective date of that order for quite a considerable length of time, we undoubtedly would have protested against that.

The CHAIRMAN. Schedules have been filed under that order?

Mr. POWELL. Yes, sir.

The CHAIRMAN. Have you protested against any of them?

Mr. POWELL. No, sir. Our reason for not doing so is this, that we believe it would be better for the interior and to our interest to get what we consider a reasonable and proper and just system of making rates into this territory in and then any rates that appeared to be out of line and unreasonable to attack them individually as they appeared to be unjust. Of course, another factor may be that the western roads as well as the eastern have had greatly increased operating costs placed upon them in the last two years, and they claim that they are in need of increased revenues, and this will have the effect of increasing their revenues very materially and at the same time without increasing our burden. If this order goes into effect and we find rates in there that appear unreasonable—the advances for Spokane have not been very material—we will go over them carefully and attack any rate we consider unreasonable or unjust, but the principal point of interest is that it establishes, or removes rather, discrimination that we have been laboring under ever since the railroads were built.

I have given illustrations in the grocery line, hardware and steel, and I have a similar condition on another item, cotton piece goods. The rate from New York to the coast is \$1, with a minimum of 40,000 pounds, yielding a revenue of \$400 per car, while the rate from New York to Spokane is \$1.25, the same minimum, yielding a revenue of \$500 per car, or making a difference of \$100 which we have to pay in excess of the coast difference. Again, that excess is all paid to the western carrier, the revenue dividing to the lines east of St. Paul on the Pacific coast car \$142, and to the lines west of St. Paul on the same car \$258, and on the Spokane shipment to the lines east of St. Paul \$142, the same as on the coast shipment, and to the lines west of St. Paul \$358. It will thus be noted that the lines west of St. Paul charge and receive \$100 per minimum loaded car more to Spokane for a haul of 340 miles shorter than is performed to the Pacific coast.

Now, our tariff is all made up of commodities of this nature. I say all. I wish to qualify that. On the schedule A items the discrimination does not exist, but we have in our tariffs 475 carload items similar to these and typical of this, and we have prepared and used as an exhibit before the Interstate Commerce Commission a whole sheet showing the rates on each commodity which we should be glad to submit to your committee if you care to have it. These are typical.

We have over 500 less-than-carload items discriminated against in a similar manner, and these approximately 1,000 items represent between 5,000 and 6,000 commodities. They are all discriminated

against in this manner, and they comprise approximately 90 per cent of the westbound tonnage into our markets on which we are discriminated against, and approximately 75 per cent of that tonnage goes under schedule C.

Now, while speaking of this discrimination, I want to mention one point that Mr. Mann mentioned about any percentage increase or decrease in rates; for instance, the carriers apply a 5 per cent or a 10 per cent or a 15 per cent rate. A percentage increase of that kind increases our discrimination. This 3 per cent tax on the revenue increases our discrimination. You take the rates we have to pay, with the 3 per cent war-revenue tax, on a car of canned goods moving from New York to Seattle, it will amount to \$15.30, and the 3 per cent on the movement to Spokane would amount to \$19.80. There is a discrimination of \$4.50 against us.

Now, we are unable to conceive of any condition that will justify the carriers in charging more for a short haul than for a long.

The CHAIRMAN. It is pretty late, Mr. Powell; how much longer will you require?

Mr. POWELL. I have quite a good deal to go through.

The CHAIRMAN. Very well. I think we had better adjourn.

Senator CUMMINS. I move that we adjourn until half-past 9 to-morrow morning.

(The motion was agreed to, and the committee took an adjournment until to-morrow, Thursday, November 8, 1917, at 9.30 o'clock a. m.)

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#### THURSDAY, NOVEMBER 8, 1917.

The committee met at the Palace Hotel, Thursday, November 8, 1917, at 9 o'clock a. m., pursuant to adjournment, Hon. William C. Adamson, vice chairman, presiding.

The VICE CHAIRMAN. Proceed, Mr. Powell.

Mr. POWELL. I desire, in continuing, to cite one or two further instances of communities where an exception to the long and short haul clause has been permitted to meet water competition, that are merely types and appear to be rather unreasonable. There is one right here, of Medford, Oreg. Medford is an intermediate point between San Francisco, Cal., and Portland, Oreg. It is 329 miles from Portland and 444 miles from San Francisco. I understand the first-class rates published from San Francisco to Portland, a distance of 473 miles, is 40 cents per hundred. That rate, I understand, is made to meet water competition. The first-class rate from San Francisco to Medford is \$1.31, over three times—practically three and a third times—the amount of the through rate. It appears to me the carriers should not be permitted to deviate to such an extent. If the \$1.31 is a reasonable rate, the 40-cent rate is absolutely unreasonable, and they should be obliged to forego that traffic and let it go by water.

The VICE CHAIRMAN. I understand Medford is not on the water.

Mr. POWELL. No; it is an intermediate point between San Francisco and Portland, and the carriers have been granted relief from the fourth section from Portland to San Francisco, and vice versa, but not to the intermediate points.

Mr. SIMS. What is the rate from Portland to Medford?

Mr. POWELL. I have it here. It would be just a trifle less than the rate from San Francisco to Medford.

Mr. SIMS. Adding the two rates together, what would it make from here to Portland?

Mr. POWELL. As I say, I have not that rate, but it would be approximately the same; it would be undoubtedly over \$2.

Mr. SIMS. And the other is 40 cents?

Mr. POWELL. Yes, sir.

Mr. SIMS. Is the through rate from Portland to San Francisco the same as from San Francisco to Portland?

Mr. POWELL. I understand it is. Well, assume Medford is an agricultural or farming community, if the dealer or farmer wishes to buy a carload of wagons from South Bend, Ind., for example, he could move that carload of wagons to San Francisco via the Southern Pacific and on to Medford at a rate of \$1.60 a hundred. That same car of wagons, if a Portland merchant buys a carload of wagons from South Bend, Ind., could move via the Southern Pacific and it would move through Medford and be delivered 329 miles further on at a rate considerably less—\$1.25. Now, figuring the difference on the cost of the wagons, it would be a difference in the charge for each wagon of \$4. There is no water competition to the best of our knowledge between Portland and Spokane, or South Bend, Ind., and Medford. It would appear to us a discrimination that is absolutely unreasonable, and, as I say, this is merely a type of the conditions under the present administration of the long and short haul clause.

I understand that rates are published from Memphis, Tenn., to New Orleans at considerably less than the intermediate rates. That is due to the location of Memphis on the river, and they are given a cheaper rate than the intermediate points. I merely mention this to show that there are certain conditions that exist, and the same exist as between Baltimore, Md., and Charleston, S. C.

The VICE CHAIRMAN. You mean to say in reference to the Mississippi River case that the discrepancy is as large there as here?

Mr. POWELL. I did not get the exact rates, but I merely mentioned it to show that this was not a purely intermountain matter; that the violations were not all on the Pacific coast, but violations are prevalent in various parts of the country to a greater or less extent.

The VICE CHAIRMAN. It used to be a great deal more in the East. We raised Cain, however, until we secured this long-and-short-haul clause, and they have removed a great many inequalities. It is true they have not lost anything, however, because they have added it to the basic rate points, and have come out of the situation with larger revenue than when they went in.

Mr. POWELL. They also removed most of the carriers off the river. They have been permitted to name rates so low that it is not profitable to the water carriers and they have gone out of the service.

I want to call attention again, for the purpose of using it later, to one point in connection with the canned goods rate that I mentioned yesterday, but did not bring out quite clearly, and that is on a carload of canned goods moving from the Pacific coast terminals to the East at a rate of 72½ cents. The percentage that the western road, the road handling that car from Seattle to St. Paul, gets out of that rate is 46.4 cents per hundred. That is a haul of about 1,800 miles. We are paying the carriers for the haul over the mountains from Seattle to Spokane, a distance of 340 miles, a rate of 43 cents, while the carrier will haul the traffic on to St. Paul, a distance



of 1,800 miles, or almost 1,500 miles from Spokane, for 3.4 cents. Of course, we are paying less for a short haul in that instance, and I merely mention it as bearing on the eastbound rate-making basis.

Mr. SIMS. One is about six times the mileage of the other.

Mr. POWELL. Yes, sir: a little over five times. Now, Mr. Mann explained at some length the excellent service that was being given to California for the distribution of food products to all of the people of the United States: that these rates have been blanketed for them, so that freight could move from California points to Chicago, Cincinnati, or any eastern points, at the same rate. It is very true the carriers have done that, and I think perhaps it is an excellent idea and an excellent scheme and is undoubtedly resulting in good to the people of California and the people of the East as well. The point I make is, if it is a proper method of making rates and distributing products of the soil and food products, particularly, why is not the same system of rate making used on the westbound business?

Practically all of the canned corn consumed on the Pacific coast, as well as the intermountain territory, is grown East. There is a very large movement of canned goods westbound as well as California goods eastbound. But on the westbound business they do not blanket these rates and serve all the people of the United States. They blanket the rates for the Pacific coast shipper or market exclusively, discriminating on the same items westbound against the intermountain district on a basis they do not eastbound. For instance, I might mention that this has quite a bearing on the people living in a community. If the Pacific coast merchant, either a jobber or retailer, desires to buy canned goods—we might take, for example, corn, inasmuch as we have introduced that—he can go to the markets of Minnesota, Wisconsin, Iowa, Illinois, and New York, and he can buy in any of those markets where he can secure the best value f. o. b. factory, and his transportation charge from any of those points to the Pacific coast terminals is identical. Now, when the intermountain merchant goes to the market to buy his goods, if he can buy canned goods and find canned corn of satisfactory value in Minnesota—which takes the Missouri River rate—he can move it to his market at the terminal rate, 85 cents. But if he can not buy a value that is satisfactory, or even though he can find a better value in other markets—should he be obliged to go to Iowa, as he is generally—he is obliged to pay a higher rate to his market than his coast competitor is obliged to pay, the same as if he is obliged to go farther to Illinois, his rate is still graded higher, and to New York it is still higher than that. This very fine system that Mr. Mann explains is in effect for distributing all the Pacific coast products, and applies to all products of the western territory as well, but if it is the proper system it should apply westbound as well absolutely; and that is our complaint, and it is the fault that we find, and that is why we are appearing here to-day—because it does not apply on the westbound business.

Now, these discriminations are carried throughout the tariffs on commodities of the same class or nature. On structural material the eastbound rate is blanketed. On such items as lumber there is probably no commodity that we have for sale in the West here in

the Pacific coast territory, as well as the intermountain territory, that is subject to water competition as keenly as lumber, and if there is any necessity for deviation you might think that it would be justified on lumber. As a matter of fact the lumber rate is blanketed. They do not recognize water competition eastbound on it and do not on cement, and to the best of my knowledge there is no commodity moving eastbound in carload lots that they pyramid as they do westbound. Structural material we move westbound, as demonstrated yesterday—structural steel—that is the same type, and the same applies on coal, etc. We are obliged to pay a higher rate to all the intermountain territory, and the rate is not blanketed. This has the effect of increasing our cost of all materials shipped in and it also has as I explained, or endeavored to explain, the effect of limiting the market in which we can go to buy goods. It gives an absolutely free and open field to an institution or individual located on the Pacific coast for purchasing, and it has the effect of limiting the market in which the intermountain individual can make his purchase.

Now, yesterday there was a discussion to some extent about how thickly the eastern territory is populated, and the territory lying adjacent to the Atlantic coast territory that would correspond to some extent with the intermountain district here, and upon our investigation of all the rates and rate-making schemes in effect in this territory we have failed to find a single instance where the long-and-short-haul clause is being violated on the eastbound business.

Now, we purchase in the West here quite a good many canned goods from Indianapolis, and the intermountain territory all pays quite a high rate on those canned goods from Indianapolis, and the Pacific coast buyer pays it; but taking Indianapolis canned goods shipped East—and they do move East—the purchaser of canned goods or the jobber from Rochester, N. Y., for example, does not have to pay a higher rate than if the goods moved to New York City. They will stop them at any intermediate point between Indianapolis and New York City without charging the intermediate point a higher rate than the through rate. Of course, in many instances the rate is lower, but in no instance is the rate higher. That system of handling rates appears all through the East, and it has helped materially in the development of the country and in making the country populous.

Mr. SIMS. Do you mean, in saying eastern territory, to include the territory east of the Mississippi?

Mr. POWELL. Practically; yes, sir. There are some points between water points north and south, but goods move eastbound from any point, either a water point on the Missouri River or a point on the Atlantic seaboard, and the rate is not any higher than the rate to the seaboard point; but it does exist on this coast, and that is what we complain of. If the goods originate in the Middle West and move to the Atlantic coast the intermediate point does not pay a higher rate. There is an absolute inconsistency in naming and adjusting the eastbound and westbound rates. They are treated on entirely different bases. The carriers in naming their rates do not appear to recognize water competition eastbound. It is very strong, taking points on the westbound traffic, and it is given, as you have heard, not from the carriers themselves, yet, but from very able men who have represented the carriers' views perhaps as well as the carriers

themselves, that these rates are the result of water competition, and that the carriers should be permitted to meet this water competition. We believe they should be, too; but they do not at all at any time make rates to meet water competition eastbound, as on the same basis west. They do not do this pyramiding of rates to the eastern territory, notwithstanding that boats are engaged in the coast-to-coast business, and they must have a cargo eastbound as well as westbound, and do have.

Mr. SIMS. The substance of your statement is there are no violations of the amended fourth section on freight moving east from the Mississippi and Missouri Rivers to the Atlantic ports, while moving west to the Pacific ports the violations are general?

Mr. POWELL. Yes, sir. Mr. Wade testified, and Mr. Mann, I think, also, that something like 10,000 items in the tariffs would have to be changed. I do not know what percentage that is of the whole number of tariffs, but it is a very large percentage. It is found very generally, and yet it is not found at all in the Atlantic coast tariffs.

Now, they made the statement yesterday that something like 1,000,000 tons of freight moved through the canal the first year it was open, westbound. I think that is probably correct. The canal was built to handle freight. It was built by the American people as a whole and not by the Pacific coast or the Atlantic coast cities, and the interior paid just as much, proportionately; and I am not sure but that, if figured out where all the taxes come from, but they paid equally as much as the coast cities, and it was supposed to be for the benefit of the people of the United States and for the purpose of helping expedite the movement of freight traffic.

But there was 1,000,000 tons of freight moved westbound through the canal, and the figures introduced yesterday indicated that 600,000 tons moved eastbound, showing that the boats were not, at that time at least, able to secure perhaps a sufficient cargo eastbound. I am only mentioning these points at this time for this reason, that the carriers maintain at all times that their movement of empty cars has always been westbound—they have more tonnage eastbound than west—and it appears to me that the railroads are hauling empty cars westbound and the water lines are hauling empty steamers eastbound. There should be a readjustment of the rate or traffic conditions for economical reasons, if for no other, that to some extent would equalize that condition.

Now, it has been stated repeatedly ever since we have been in this case, at least, for 28 years, that the water carriers control the rail rates and it was necessary for the rail carriers to make lower rates at terminal points to meet water competition. When the rails were originally laid to the Pacific coast, it is my information that the carriers at that time did meet the water rate to a very great extent, irrespective perhaps of whether it might have been a reasonable or an unreasonable rate at that particular moment, and there is no doubt but that the water carriers have quite a bearing on the rates prevailing with the rail lines, but the real truth of the matter is that for the past good many years at least the rails have dictated to a very great extent the water rate. There seems to be no argument but that the water carriers can carry freight cheaper than the rail lines, and when boats are in service and the schedules are arranged, the



water carriers always carry freight at a lower figure than the rail lines. At the same rate of freight the traffic would move by the rails on account of their superior service. The vessels engaged in that business in order to get a cargo—a sufficient load for their vessels—find it necessary to make a rate lower than the railroad carriers are making. The rate they are able to get for their water-carried goods and for their business is dependent almost entirely upon the rates that are published and being named by the rail carriers. If the rail carriers' rates to the Pacific coast terminals are comparatively high, the water carriers can just shave that rate enough to make it an inducement to the shipper to use his line. If the rail rates published to the terminals are comparatively low, the steamer man must still get below that cheap rate sufficiently to make it attractive to the shipper of freight, and yet while it is a good proposition and has some points of merit to it, the real facts of the matter are that instead of the water lines dictating or controlling the rates, quite the reverse is true: that the rail carriers have for many years past practically established the prices that the water carriers can get for transporting and handling their goods.

Now, that is true, in my opinion at least, of the interior waterways and rivers as well as the ocean traffic. This point was covered quite clearly by Mr. Jackson, the traffic manager of the American-Hawaiian Steamship Co., in his testimony before the Interstate Commerce Commission at New York. I do not remember the date, but I think it was about a year and a half ago, and he stated, most emphatically, the rail lines controlled their rates to this extent, that, as I have just mentioned, they are obliged to name cheaper rates than the rail lines in order to fill their boats, and whenever the rail-line rates are high the higher their rates are, and whenever the rail-line rates are low they must meet that rate, and by that I mean they must make a lower rate. Of course, the fact of the steamers being obliged to haul at a lower rate than the rail lines always enables the carriers to show that the traffic is moved lower by vessels than rail, and that is true, because the rate must be lower in order to get the traffic on the water lines.

MR. SIMS. In that connection, if I may be permitted to interrupt, has it not been shown as a general rule that the Hawaiian company advanced its rates on the same products to the east when the trans-continental railroads advanced their rates?

MR. POWELL. Yes; I understand it was done practically at the same time. They follow the rail rates up and down.

MR. SIMS. They increase and decrease according to the rail rates?

MR. POWELL. Yes, sir; and up to the present time, at least, there has not been competition enough, I might say, or so many ships in the service that they have had to compete very keenly against each other for traffic. The competition has been ordinarily water and rail and not between the various water lines.

MR. SIMS. I refer to traffic going over the Tehautepec route before the Panama Canal was opened.

MR. POWELL. That is true; yes, sir.

Now, the point has been made that if the carriers level their rates through from coast to coast and find that their rate at the Pacific coast terminal is so high that they can not get the business or con-

trol the business, that the water lines will move it at a lower rate and they will lose the business, and if they did not violate the fourth section and name a cheaper rate for the long haul than for the short, should the carrier be permitted to lower that rate. Of course there is a marked difference of opinion in various communities. Our viewpoint is this, that we do not think it right, or do not think it for the public interest or public good, and do not think it is possible, for the rail carriers to do all the business in this country, and we believe that all of the channels of transportation should be used and should be taken advantage of, and we believe that our interior waterways should be developed. We are spending an immense sum of money for that, and yet there are no boats on them, and we have paid—I am speaking of the intermountain district—we have paid for the building of the Panama Canal just as much as our friends on the coast, and we favor it as much as they. We think that the canal should be developed for transportation purposes. That is what it was built for.

Now, the coast tariffs here carry something like 10,000 items on which the rail carriers claim that water competition, either real or potential or imaginary, makes it desirable that they shall be relieved from the application of the long and short haul clause. Now, if they are permitted to violate the fourth section and make a cheap rate on every commodity from every point in their tariff, which they are doing practically on 10,000 items, where are the boats going to get business? Of what advantage is the canal and ocean if we are going to adjust our transportation-rate system so that the rail carriers can meet the water rates at every competitive point, and as stated before, the conditions being equal, the rail carriers will get the business, and it appears to me that it is unusual, and it is not a proper attitude for even the carriers to be expected to be able to do all this.

I am engaged in a private business. I meet competition, and I can not do all the business in my particular territory, or in my particular line of business. We meet competitive conditions every day that we are obliged to ignore and pass. Our competitors are going to do some business, and they have a perfect right to, and we expect them to, and our water carriers must be expected to do business and must be permitted to do business, and it is for the welfare of the American people and the communities generally that water carriers be developed to a much greater extent than they have been for a great many years, and our position is that where a commodity is actually and truly and not imaginarily subjected to water competition and originates at points where it can move from one point to another by water under conditions more naturally than under conditions at other points, then that traffic should move by water and the rail carriers should not try to monopolize all the transportation business of the United States.

**Mr. SIMS.** Unless they can reduce the rates on all business by doing all of the business.

**Mr. POWELL.** That is what I had in mind. If they can not handle that business on a rate that is remunerative, they should not be granted relief from the fourth section and be permitted to charge more for the short haul than for the long haul.

Now, in connection with this, the question has been asked where would the railroads get their business or tonnage to keep up their service and equipment and pay not only their overhead expenses but dividends and interest, and I feel very safe in saying that the traffic managers of the carriers are very much more able to figure out that basis than we could possibly be, but we have our notions about it. My impression is that if the water-carried goods are moved, say, to the Pacific coast terminals, the rate that the carriers may be obliged to put in to meet that water-carried traffic at the Pacific coast might not be remunerative. I think if it is not they should not be allowed to put it in, but a rate that is not a remunerative rate at the water terminal might be truly a remunerative rate back two or three or four hundred miles in the interior, where the carrier has a much less service to perform. That is particularly true in our community, where there is a difficult mountain range to cross between our town and the coast.

Now, if they, for instance, could not afford to make a dollar rate on any given commodity to the Pacific coast terminal, they might very well find that the dollar rate would be remunerative at a point two or three or four or even five hundred miles back in the interior.

Now, it would be natural for our interests to have the traffic managers on our side. We have great admiration for them and would like to work in harmony with them, instead of scrapping with them all the time, to see if they are as clever as we think. They would endeavor, of course, to increase tonnage to the interior points or to make such rates on commodities to the interior territory as near the ports and as near the coast territory as they could reach, and still make a profit on handling, to supply the entire territory at which they named a rate, but at the same time a rate sufficiently low to keep the water-carried goods that are carried in competition with them by the water route from being distributed back into the interior. This is purely, you understand, from a traffic man's viewpoint, affecting the interests of his road, because the question has been asked in many cases, How will the carriers recoup their losses they might be obliged to take in leveling prices? Of course, in leveling our prices they are not reducing anything, but putting them up. But the effect of this would be to increase the tonnage that the carriers are now handling at all intermountain territory and interior points very materially at a remunerative and profitable rate for a very much less service than they are now rendering to the Pacific coast terminals at rates they admit and claim strenuously are not remunerative rates. It will be transferring quite a traffic in certain commodities—not all, because they will lose, undoubtedly, quite a considerable business to the boats which they should have it water transportation is an advantage—but they will give over quite a large percentage, or quite a tonnage, I should say, of traffic that they now claim is not remunerative, that barely covers the out-of-pocket cost, and does not pay any profit. They are relinquishing that, and in return for that they will get a very large increased tonnage to the interior and intermediate points at rates that are absolutely remunerative and at much less cost than the service they have been rendering, because they will have a shorter haul and they will be releasing their equipment much quicker and sooner for other service than if they were obliged to continue the haul farther to the terminals.



Of course, the rail carriers will still enjoy the entire distribution to the interior of all water-carried goods brought to the Pacific terminals. Those goods will still be distributed by the carriers. They will lose none of that business, and judging from the comparison I cited a few minutes ago, the haul for which they are charging us 43 cents—carload rates—on canned goods a distance of 342 miles to Spokane, as against 46.4 to St. Paul—I should think that would be very profitable business. I should think it is a business on which they are probably making very good money.

Mr. SIMS. Still they are losing on the St. Paul business.

Mr. POWELL. These eastbound rates, I will say, are apparently rates put into effect by the carriers, and they are to-day higher than they have been for a good many years. They were increased some short time ago—I think last December. They were increased from 62½ to 72½.

The CHAIRMAN. To what rates do you refer?

Mr. POWELL. Eastbound canned goods. Mr. Sims was indicating that perhaps the 72½-cent rate they were carrying eastbound was not profitable.

Mr. SIMS. I mean a part of it. The difference in the rate, from Spokane to the other place, was only about 3 cents, and the distance they had to carry it was several times as great—from Spokane to St. Paul was several times greater than from the ocean terminal to Spokane, and if 43 cents was a reasonable rate from the ocean to Spokane, that 3 cents a hundred for several times the distance looked like a losing rate.

Mr. POWELL. It would appear so, but judging from the rates that the carriers are carrying on the westbound freight, that rate must be a reasonable rate.

Now, I am confining my discussion entirely to the long-and-short-haul clause, but I could not help but be interested in the discussion of the possibility of Government ownership. I do not attempt to touch on that except to say that it appears to me to be the duty of this Government, if they do not own the railroads, which they do not, and if they do not acquire them, which is a question of policy, to regulate the movement of freight so as to prevent any unjust and undue discrimination, both as respects individuals and communities. If the Government were engaged in this operation, they would be obliged to regulate the matter. Now, the lack of regulation and the lack of control, appears to me, would be the thing that will be more apt than anything else to cause the people to demand more ships, so as to receive the service that they can not get any other way. Such trials and troubles and discriminations as we have undergone for the last 20 years would almost make an anarchist of anyone. I really believe that under ordinary conditions I would be one of the last men perhaps in the United States to advocate Government ownership as a necessity, but against my own judgment and own will I have been forced every day nearer to the conviction that we are not able to get proper regulation without it. We think the movement of freight—at least naming of freights—can be so regulated that the rail carriers will not find it necessary to drive the boats out of the business.

Now, another illustration perhaps of our notion of how the roads can recoup for some of the tonnage that would be lost to the water

carriers: They advise that they are hauling empty cars westbound. We would suggest that there is quite a tonnage of lumber that is now produced along the Pacific coast directly subject to water competition. That is now moving by rail and could well move by water. That would relieve them of the necessity of hauling empty cars out here to move that, and it would give the boats the tonnage eastbound on it, and then for the cars that they desire to move westbound they can provide more loads than there are at present to the intermediate and to the intermountain points. They can bring traffic to the intermountain points if they will make their rates sufficiently attractive, that does not have to go to the coast and back, a lot of commodities that we have to have from eastern territory, and the cars can be unloaded and reloaded with our grain and wheat and our oats and fruit and other materials that the coast requires, and the cars can be sent on to the coast under load, and these same cars can be loaded again with condensed milk and canned salmon and commodities that they produce that we need. It is not necessary to send loaded cars to the Pacific coast and empty them and send them back again purely for the reason they want to keep the boats from getting the traffic.

We believe it is vitally necessary that the Government regulate rates—that is the primary way to do it—so that the rail carriers can not drive the water carriers out of business and discriminate against one community in favor of the other. This can not be done, in my opinion, while the carriers are granted relief from the fourth section, as they are now, on some 10,000 commodities on the Pacific coast.

Now, the carriers maintain, as I understand, that these low rates, made necessary at coast terminals to meet water competition, as a rule, at least, do not represent, perhaps, a direct loss, but they do not show any profits. They are not remunerative, and they make merely the out-of-pocket cost. They have been granted relief on 10,000 articles. The intermountain and intermediate points have been obliged to pay the interest and dividends and profits on every dollar of capital that the carriers are using on their lines to the coast to perform absolutely gratuitous service to the terminals that is absolutely unnecessary, and, as I believe Mr. Mann stated, is of practically no value. Mr. Mann stated yesterday that they can secure this same service from the water carriers at less rates, and they can.

Now, they are making up—in other words, while they may not be making all their operating cost—they are making all their profits from the intermediate and interior points, and they have said so, and defended it many times before the Interstate Commerce Commission, that they are not making a profit out of the coast business. If that is true, we think they should be obliged to adjust their rates to a basis that will be profitable, and where the water lines can handle the business to better advantage we think they should have it, just as we have to do in our business. If we can not handle a certain line of goods as cheaply as another competitor, we have to drop it; and we think the railroads should not be permitted to handle traffic that is not remunerative and make their entire profits out of another. Mr. Mann indicated, for sentimental reasons, however, and perhaps because of insurance against the sea, that the Pacific coast cities preferred to keep these preferential rates, and that they would fight, and have fought, to the last ditch to maintain them. It may not be quite clear

why, but it has been the fact that in every complaint and hearing we had before the Interstate Commerce Commission, before the courts, and in various hearings covering the last 28 years in this matter the Pacific coast cities without, as Mr. Mann says, any spirit of jealousy have appeared opposed to us and in aid of the carriers in defending this system of rate making and these rates in each instance.

Now, regarding this discrimination, what is this discrimination? A few years ago Congress saw fit to pass a law that made it unfair and unlawful for the carrier to favor one individual over another, either in the way of preferential rates, or free passenger transportation, or rebates, or any other way; that it was absolutely un-American, unfair, and was stopped by legislation. At a more recent date Congress has enacted a law regulating private corporations. Under the jurisdiction of the Federal Trade Commission it is now illegal for a corporation engaged in interstate traffic to favor one individual over another, or one merchant. As a jobber doing business as we are, located in Washington and doing business in Idaho and Montana, we can not cross the State line and offer one jobber a lower price than another, or offer any one community a greater trade allowance, or prefer in any way one shipper as against another; and yet, gentlemen, Congress and all of us sit here and excuse this legalized form—this most vicious and iniquitous system of rebating, of preferring one city or one town and one community as against another. We are obliging one community to pay earnings and profits and dividends on capital used in performing an unfair and unnecessary service for another. This discrimination can be nothing else. It is a legalized wholesale rebating. It is the old vicious system of rebating applied in a wholesale community way instead of as between individuals.

Mention has been made of this matter from time to time as being a jobbers' fight. I am not going to touch upon that except in one respect. I am in the jobbing business, and as you may know, and probably do know, jobbers do a business practically on what is known as a percentage basis. As far as our profits are concerned, it does not matter materially whether our costs are high or low, because we figure the cost of our goods delivered in our houses, including the freight, and add a certain percentage to that cost to cover the cost of our business and a reasonable return on the investment. Where we have to pay a higher freight, in many instances, as I have shown you from \$150 to \$200 per car on the goods, we add to the cost of the goods delivered to the house that amount, and we add a profit—our percentage of profit. I want to say that the higher that cost, the greater the difference between the final cost, including this freight, and the original cost, the more we make. It is not a jobbers' fight, because the cost of the freight that is paid is naturally paid by the consumer and any reduction in freight is transmitted through the regular channels to the consumer in the same manner absolutely. That condition not only prevails in our market, but it is quite a common practice in the wholesale business, in my opinion, throughout the United States. It is practically conducted on a percentage basis, and after all the higher or lower the rates are, it does not affect the profit on our transaction. We get a certain percentage anyway. It might, to a certain extent, limit the territory to which we might distribute, or the volume that might be done, except for this, that



a merchant owns his stock of goods but he does not own his customers or his business.

If the community secures any marked advantages in the way of distribution, it encourages to that market immediately additional distributors, and while we might say that it might to some extent increase the territory of one community as against another in some circumstances, it might in other circumstances be an injury to the jobber of that community by encouraging additional competition. There is no way in which we can control and own our business except through the good will of our customers. A man who owns a piece of real estate, or a man who owns a building or personal property, owns it and it belongs to him, and no one can deprive him of it except they pay him what he wants for it. The same is not true, however, of the merchant in business. He does not own his business or his patronage.

Now, in closing, there is one point that I wish to emphasize again upon the committee, that the Panama Canal has been closed now for over two years, and there have been no boats engaged in this coast-to-coast business for a period of over two years. Our statute provides that the Interstate Commerce Commission shall, from time to time, readjust these rate conditions as the conditions may change, and yet we are still paying the same high rates and the discrimination has not been removed, notwithstanding the canal has been out of business for two years. The commission now finds that on 115 items we should never have been discriminated against at any time, and yet we have been at great expense in time and money, litigating and protesting this matter for something over 28 years, and it has been just discovered that on 115 items we should not have been discriminated against.

Notwithstanding that finding in June, we are still paying a higher rate along with the others. It is conditions of this kind that really cause us to despair of any permanent or practical relief under the present law as it is administered. We have sort of given up hope. It seems to be out of the question to get relief. Personally, I am of the opinion that the commission would be very glad to be rid for all time of these fourth-section exceptions.

It would undoubtedly release them from a tremendous amount of work and would give them time to take up other matters that are of very great importance. I am not positive that an absolute long-and-short-haul clause will prove 100 per cent efficient. It is very hard to get absolute perfection in any legislation, but I can not see—there is not in my mind any condition that would justify the carriers from deviating from an absolute long and short haul—but if there should come to pass any condition that might apparently justify it I am quite sure it would be of such slight importance in the administration of our affairs that it would be of no consequence whatsoever. I believe that the Pacific coast cities should enjoy to the fullest the advantages of their location and other natural advantages. If a city is located on the sea, it should be permitted to enjoy to the fullest extent whatever advantage that location on the sea may give to it. I feel exactly the same about a city located in the interior. If it has any advantage whatever, of any nature, in location or resources, it should be given the full advantages of those features. A number

of intermountain cities have preferential locations with reference to railroad conditions, and they should be given the benefit of that location.

The communities that I represent are fully convinced that there is nothing that will grant us the relief that we desire and believe we are fully and justly entitled to except the enactment and enforcement of an absolute long-and-short-haul clause. We have tried all kinds of substitutes and they have all failed.

The CHAIRMAN. Regarding Government ownership, what, under Government ownership, would you regard as a probable traffic system as applied to systems concerning which you have testified?

Mr. POWELL. What I had in mind was perhaps this, that the Government, if owning water lines and rail lines, would not permit of a traffic condition that would result in the carrying of a large percentage of empty cars westbound and sending empty boats eastbound, but would so regulate the traffic that the traffic would move in proper and normal channels under normal rates. In making that point, Senator, I was mentioning particularly lumber; that the carriers are hauling cars westbound for that all the time.

The CHAIRMAN. Now, under a Government system, would you accept the mileage basis for traffic?

Mr. POWELL. That is rather a difficult question to answer. I presume to some extent at least it would be taken into consideration; I understand it is by this time by most of the State commissions. It, however, probably would not be an absolute one.

The CHAIRMAN. Under such a system would you expect the existing transcontinental rates to the interior to be reduced, or would you expect the terminal rates to be increased?

Mr. POWELL. I think that would depend upon the test of the rates, as to what is probably a reasonable rate. Now, under normal conditions and conditions as they existed prior to the last year or two since the carriers' operating costs have been increased so materially, we expected confidently that the rates to the intermediate points would be reduced, but in view of the increased cost and general increase of rates east as well as west it may be at this time that the best method of handling it for the carriers is to advance the terminal rates.

The CHAIRMAN. Under normal conditions, what would you expect?

Mr. POWELL. Under normal conditions, it would be my opinion—understand, I have no direct information—but it would be my opinion that the rates to the interior should be decreased; possibly not to the full extent of all the low rates to the terminals. It might be necessary to raise some of the terminals and decrease a great many of the interior rates.

The CHAIRMAN. Your contention is that the water carriers and rail carriers are both public servants, and one public servant should not be allowed to club the other public servant out of existence?

Mr. POWELL. That is my position.

The CHAIRMAN. Now, assuming that the rail carrier would not be justified as a public servant in endeavoring to destroy the water carrier by unfair competition, where does fair competition end and where does unfair competition begin?

Mr. POWELL. Well, I would consider as unfair competition the naming of a rate by the rail carrier to meet water competition, to take business away from the water carrier, a rate that was not

remunerative to the rail carrier on which they would be obliged to make up their profit and remuneration from other business.

The CHAIRMAN. What do you regard as a remunerative rate—a rate that will simply cover the cost of operation?

Mr. POWELL. No; I am of the opinion that the rate should be more than that.

The CHAIRMAN. How much more? What standard would you apply?

Mr. POWELL. I have not in mind any definite standard.

The CHAIRMAN. Have you ever studied these transcontinental rates with a view to discovering whether they do cover the cost of operation?

Mr. POWELL. Yes; we have figures on a great volume of them and we have them here if you want them submitted.

The CHAIRMAN. What is your general conclusion?

Mr. POWELL. Our rates at Spokane are returning to the carriers a very much higher average than the entire earnings of the system.

The CHAIRMAN. I was speaking of the rates from coast to coast of the railroads. Have you found any that do not pay the cost of operation?

Mr. POWELL. I have not gone into it from that point of view.

The CHAIRMAN. Do you think, on the whole, that these rates that are competitive with the water rates are remunerative?

Mr. POWELL. I am not in a position to know, but it is my opinion that they are. I would not say to-day, but they have been in normal times—in the past few years.

The CHAIRMAN. Would you regard those rates, low as they are, as involving unfair competition with the water carriers?

Mr. POWELL. No; I have not considered it from that viewpoint. The unfairness we see in the matter is applying a higher rate to the intermediate points.

The CHAIRMAN. I am speaking about the unfairness as between the rail carriers and the water carriers.

Mr. POWELL. Taken as a whole, the rates to the Pacific coast terminals westbound, in my opinion, have been to some extent remunerative rates. I think they are paying more perhaps than the carriers have represented to us.

The CHAIRMAN. Now, assuming that as a result the system which has been in existence for so long of making the terminal rates lower than the intermediate rates, because of this water competition, large jobbing houses have been established at coast points by reason of the increased tonnage which they receive, what economic effect would a sudden change in this condition have, so far as the prosperity and business and population of the coast ports are concerned?

Mr. POWELL. Well, it would cause more or less perhaps of a readjustment of some commercial and trade conditions. That would not be real sudden. It would come about gradually. These very large emporiums that Mr. Mann mentioned on the coast would not stop selling goods, and the readjustment of costs to the territories they would reach would not be felt until their present stocks were exhausted, and, of course, these stocks will not become exhausted in all items at one time. It will be one item at a time and the readjustment would be gradual. It is impossible for me to state to what



extent, because I do not know to what extent the Pacific coast jobbing houses are distributing back to the interior, but it would only readjust things back to the natural basis in any event, and I do not consider it is an excuse for delaying the change if it is the right thing to do.

The CHAIRMAN. Your idea is that if the thing is right and proper that the thing should not be carried or delayed over a period so as to reduce the shock, but that it should be immediate?

Mr. POWELL. Oh, no; it should be immediately put in. It will not mean a complete overthrowing of traffic conditions. Of course, it will not disturb to any extent the local business of the cities along the coast. It will not affect, perhaps, their business at the extremities of their territories. For instance, in our markets we have salesmen traveling in what we call competitive territory. Our salesmen will possibly call on a merchant and be able to sell that merchant 10 or 15 or 20 items in his line. A readjustment of the trade or freight conditions such as this would not probably increase the number of towns at which he can call, but this merchant to which he sells 10 to 20 items he would probably sell 30 or 35. Undoubtedly it will affect in some instances the large coast jobbers who have rendered a good service to the interior as well as their territory, and it will probably result in their establishing warehouses in some of the interior points for handling heavy commodities to be shipped there to break bulk. They are not going to go out of business. It is not a revolution.

The CHAIRMAN. You think it would not be revolutionary. You spoke of the territory of the coast cities. We will assume that the territory to the west of the crest of the mountains that separate the coast region from the intermountain region is the territory of the coast cities. How far east of that mountain line does the territory of the coast cities extend?

Mr. POWELL. That varies very materially in the different lines of business and different lines of commodities, and it also varies as to whether we are discussing the coast manufacturer or the coast jobber. The coast manufacturer's business extends practically to the Atlantic seaboard. They have the entire market of the East, as we have demonstrated, on California products, canned goods, beans, dried fruits, etc.

The CHAIRMAN. How is it on things that the jobbers handle?

Mr. POWELL. On things that the jobber handles it is not economically proper that they should be hauled the entire width of the continent and then hauled back. The distances they are hauled back are regulated to some degree or extent by the preferential rate the jobber now enjoys, and to some extent by the weight of the commodity. Dry goods and specialties and hardware are probably hauled back seven or eight hundred miles, whereas heavy commodities can not be hauled that far. A car that contains heavy commodities will probably be stopped at an intermediate point and unloaded, although it is handled probably by a coast jobber.

The CHAIRMAN. Taking your coast region, I assume Seattle, Portland, and Tacoma are the ports—how far to the east beyond the mountain line does the market of those coast jobbers extend?

Mr. POWELL. Well, we are 342 miles from Seattle. We are a little farther than that from Portland. In our cities there are representatives of Portland and Seattle—drug-store houses and

wholesale cigar houses, as well as dry goods—who have families living there, and they are residents there. They do business in the interior territory surrounding us, and in my opinion they are shipping goods, at least to some extent, 100 or 150 miles east of that. What arrangement they have for covering Montana territory farther east than ours, I do not know.

The CHAIRMAN. Are any of the railroads which serve your community incorporated under the laws of Washington?

Mr. POWELL. I do not know. I think not.

The CHAIRMAN. That is all.

The VICE CHAIRMAN. I have no questions at all.

Senator CUMMINS. The interstate-commerce clause forbids generally two things: First, that a carrier shall not charge an unreasonable rate for any service that it renders; and, second, that it shall not discriminate either as between individuals served or communities served. Those are the two general commands of the interstate law as you understand them?

Mr. POWELL. Yes, sir.

Senator CUMMINS. The fourth section creates a standard; in your opinion is the fourth section intended to secure reasonable rates or service, or is it intended to prevent discriminations?

Mr. POWELL. Well, I should say both.

Senator CUMMINS. You think, in the case of Spokane, it is intended to secure for the people of that community reasonable rates in and of themselves?

Mr. POWELL. Yes, sir.

Senator CUMMINS. How can that be when the fourth section permits, or at least does not forbid, as high a charge to Spokane as to Seattle?

Mr. POWELL. I do not think I catch your point.

Senator CUMMINS. It does not forbid as high a charge for service at Spokane as for service at Seattle?

Mr. POWELL. Well, I do not think it was ever intended by the framers of that clause, when it was passed, that it should be used in the manner that it has been by the Interstate Commerce Commission. It is my belief, and I spent some time in Washington about the time this was amended, and talked to a number of people who considered it quite seriously, that it was intended that relief from the absolute long and short-haul clause would be granted in a few and very exceptional cases, and would not be permitted to be used in a general way.

Senator CUMMINS. I think there was no doubt about that and that is the reason I asked you whether the fourth section was intended to work out or help to work out, the general prohibition against discrimination between localities.

Mr. POWELL. In my opinion that was the intent.

Senator CUMMINS. Or whether it was intended to help work out the requirement that each service shall be performed for a reasonable charge.

Mr. POWELL. Well, it is my impression that the prime object of the law was to prevent and limit discriminations.

Senator CUMMINS. You believe that there can be any discrimination between localities, in charging more for a shorter haul than

a longer haul, if the cost of service is greater upon the short haul than the long haul?

Mr. POWELL. I can not see where the cost would be greater for the short haul than the long line over the same line in the same direction.

Senator CUMMINS. I am not attempting to decide the fact, but I am asking you whether, in your opinion, Spokane would be discriminated against if there was a higher charge to Spokane than to Seattle, if the cost of service to Spokane was higher than Seattle?

Mr. POWELL. I believe that the cost of service should be considered as quite a serious factor in the method of rate making. I do not think it is a controlling factor. With that in mind, I think the cost of service, irrespective of the distance the goods are hauled, might have some bearing on the making of rates.

Senator CUMMINS. Suppose the railroad companies were able to show that it cost more in general business—taking all the business together—that it cost more to haul a car from Pittsburgh to Spokane than it cost to haul it from Pittsburgh to Seattle; in that event, would Seattle be entitled to the lower rate?

Mr. POWELL. That is a difficult question to answer without knowing all the bases of making rates. If it was based on the cost of service, it would be, but the cost of service, according to my impression, is not the entire factor or the controlling factor in making rates.

Senator CUMMINS. It is not the entire factor, and I am trying to find out from you if you think it any factor.

Mr. POWELL. I think it should be a serious factor.

Senator CUMMINS. Suppose the fourth section were amended so as to prohibit a greater charge for the shorter haul than the longer haul in the same direction over the same line on the same goods; provided that if the carrier can show that the cost of service over the shorter distance is greater than over the longer distance, that then, in that instance, the charge may be greater. What would you think of that provision as an amendment to the fourth section?

Mr. POWELL. I think the possibility of any movement of that kind is so remote——

Senator CUMMINS. The possibility of what is so remote?

Mr. POWELL. The cost to perform the service over the same line in the same direction for a shorter distance being more than the longer distance.

Senator CUMMINS. But would not a provision of that kind give the intermountain carrier full relief?

Mr. POWELL. I stated it is barely possible there may be some slight discrimination to some point in an absolute long and short haul clause, but, in my judgment, it is almost impossible to enact legislation that is 100 per cent perfect, and any slight injustice involved would undoubtedly have to be suffered by the community that it might happen to injure, but in my opinion that would be so slight and so small as to be almost negligible. I am speaking of actual conditions. You probably have something in mind, undoubtedly, that I have never discovered.

Senator CUMMINS. I am having this in mind: The present exception to the fourth section—that is, the exception to the rule that there shall not be a higher charge for the shorter haul, is very unsatisfactory to me, because it does not give to the Interstate Commerce Commission any rule or any guide for its application, and assuming



that there are some instances in which there should be properly a higher charge for the shorter haul I am trying to find some rule that will admit those that are just and fair and exclude those that are unjust and unfair; in other words, is the only remedy a rigid long-and-short-haul clause, or can there be some other rule established for the exception?

Mr. POWELL. Well, in my opinion, and that is the opinion of these organizations and cities that I represent, there is none except an absolute long-and-short-haul clause. We have studied the matter from every angle and have been trying every method we can think of to solve it in some way, and we are forced to that conclusion.

Senator CUMMINS. Have you ever considered the rule that I have just suggested; That is, that the exception shall be only in those cases in which it is shown that the cost of service over the lesser distance is greater than the cost of service over the longer distance?

Mr. POWELL. No; I do not think I have ever considered it from that viewpoint.

Senator CUMMINS. You have mentioned that there is no violation of the so-called long-and-short-haul section in eastbound traffic. Now, by that you mean that you do not know of any instances in which the railroads charge more for the intermediate points than for the terminal points - and in that respect I accept what you say - but you have said that there is the same rate to the east from Portland and Spokane up to, I think you said, the Missouri River points.

Mr. POWELL. Eastbound?

Senator CUMMINS. Yes.

Mr. POWELL. No; it extends to the Atlantic seaboard.

Senator CUMMINS. You do not mean to say there is the same rate from Brooklyn to New York City as there is from San Francisco to New York?

Mr. POWELL. No; what I mean is that from Spokane and Seattle that territory is blanketed to eastbound traffic points.

Senator CUMMINS. How far is there a level rate on any given commodity rate from the Pacific coast toward the east?

The VICE CHAIRMAN. The Senator means that is under the blanket.

Mr. POWELL. I could not say as to that. I know that the goods that originate in this territory can be delivered to St. Paul, Chicago, Buffalo, and Pittsburgh and New York territory on exactly the same rate to all that territory.

Senator CUMMINS. I want to find out the eastern edge of that blanket.

Mr. POWELL. I have never had occasion to look that up.

Senator CUMMINS. Is there the same commodity rate on any commodity from Butte to New York or any other point as from San Francisco?

Mr. POWELL. Butte does not produce much besides minerals, and I do not believe there is much movement.

Senator CUMMINS. I suppose they have a published rate on all these things.

Mr. POWELL. I am under the impression their rates are the same as ours.

Senator CUMMINS. Well, that would be a violation of the fourth section, unless there is some good reason for it. It is a violation of the law which prohibits discrimination, is it not?

Mr. POWELL. I would rather consider it so.

Senator CUMMINS. Why should Spokane pay the same rate to Chicago that Seattle pays, with a haul of 342 miles less?

Mr. POWELL. We should not be obliged to do it.

Senator CUMMINS. So that, although the practice might not be a violation of the fourth section, yet, so far as discrimination goes between the two originating communities, there is a discrimination, unless there is some reason for it which has not been disclosed here. Now, what is the reason?

Mr. POWELL. I could not answer that question, Senator; but I think the carriers would be in a better position, probably, in a way, to answer it; but my impression is that it is done by the carriers to permit as free intercourse of the business and encourage as free movement of the traffic as possible between consuming communities.

Senator CUMMINS. Do you recognize that as a valid reason?

Mr. POWELL. No; I do not. We do not approve of that. We are not attacking that because we have things so much more serious that affect us.

Senator CUMMINS. If that is a valid reason, it might justify a higher rate to the Pacific coast points and validate the exception against which you have been complaining on westbound traffic.

Mr. POWELL. I do not understand fully why these blankets are established and spread over the country, unless it is to give every community a chance in all the markets of the country—give each community the same chance in the markets of the country that every other community has, without any regard to distance or cost of service. That must be so.

I want to qualify that to this extent, also, that I understand there is a rate a few cents probably cheaper per hundred pounds on lumber westbound to some intermediate territory than prevails to the coast.

Mr. ESCH. I think the Red River is the line on lumber.

Senator CUMMINS. Take lumber, for instance: When I was interested in examining rates, as distinguished from examining principles, the west coast, or western lumber, was given a rate to the Missouri River—say Omaha—which, the weight of the different lumber considered, was the same rate that was given into the same territory from the southern lumber regions, and that was to enable that western lumber to meet the southern lumber in that locality upon even terms; and yet, hauled from the west into that locality, the haul was three times as long as the haul from the south and over the mountain ranges of the western country, as suggested by Mr. Esch. Now, I am not passing upon the justice of that distribution of rates, but it is very plain that the rate system of the United States has substantially disregarded the cost of service and has disregarded practically everything except the distribution of commodities. Have you ever thought of that in connection with the exception to the fourth section?

Mr. POWELL. We have thought of this point that you have made, that we are discriminated against to some extent on our distribution of eastbound business, but it is on a so much more satisfactory basis than the westbound business we have never asked for any relief. We are almost satisfied to ask that the western adjustment be made as satisfactory as the eastbound business.

In the last opinion written by Examiner Thurtell since the canal closed he stated in his opinion that the rate to Spokane should not

exceed 90 per cent of the Pacific coast terminal rates from the eastern territory. When the commission issued its order on which they are now holding hearings, they disregarded that 90 per cent recommendation made by Examiner Thurtell. But Mr. Mann stated that in most important details, besides that recommendation, this order follows Mr. Thurtell's recommendation very closely.

SENATOR CUMMINS. I do not intend to go further with it, but if you disregard the standard of the cost of service and expense to the railroad company of doing business, and take into account the general good of the country, we float on a rather uncertain sea, and I do not know, viewed from that standpoint, whether the rate from the east to Spokane should be higher or lower than the rate to Seattle. I would like to hear, some time, some discussion on that question. But that is all for the present.

MR. POWELL. The carriers can give you a great deal of that information, Senator.

MR. ESCH. You stated that if the rates were leveled up, or leveled so that the terminal rates would be the same as the intermountain rates, that there would be, of necessity, some financial loss to the transcontinental lines by reason of that fact.

MR. POWELL. I do not think I said it that way. I said loss of tonnage.

MR. ESCH. Would it not almost necessarily follow that there would be a financial loss if there is a loss of tonnage?

MR. POWELL. Not necessarily, because they will lose tonnage hauled to the Pacific coast terminals at a rate that they claim is not remunerative, but in return for that they will increase very largely their tonnage at interior points at rates that are remunerative, and for which they will render very much smaller service.

MR. ESCH. That leads me to this inquiry: Your contention is that they recoup on the increased tonnage to the intermountain points?

MR. POWELL. They would be replacing unprofitable business with profitable business; and instead of hauling, as they do, large quantities of goods to the coast at a cheap rate and hauling it back, they will be stopped at the interior at rates that are profitable, and the goods will be distributed to the interior points.

MR. ESCH. Is there a large increase of tonnage possible in the intermountain country?

MR. POWELL. That is a matter, of course, of conjecture. Every interior community to which you go will tell you they have the greatest country in the world and will develop wonderfully when they get a proper rate adjustment. As to the extent they will develop I do not know, but they will develop very materially; to what extent and to reduce it to tons of traffic at this time is pretty difficult.

MR. ESCH. Your jobbers will not overstock and your people will not overstock; they are simply going to buy tonnage as their needs require.

MR. POWELL. It will make the production and development of our resources more profitable. Mr. McCrae, of our city, will follow me, with your permission, and he will touch on the producers' viewpoint and he will show those conditions, and will demonstrate the producers' share in all this. It may make it more profitable in a sense and more attractive.



Mr. ESCH. If he is going into that inquiry, I will not ask you.

Mr. POWELL. He will go very much into the consumers' viewpoint.

Mr. SIMS. Is Spokane in what we call the arid country, the dry country?

Mr. POWELL. There is more or less irrigation. Aside from our fruit industry our principal industry is dry farming and agriculture.

Mr. SIMS. Is there not a large belt of the country extending from the northern frontier of the United States to the southern frontier at Mexico that is regarded as semiarid?

Mr. POWELL. We are not in that district. Our district is very fertile. We are not in the arid district.

Mr. SIMS. Do you not have to irrigate in your section of the country?

Mr. POWELL. We do for certain classes of fruit, but not for general purposes.

Mr. SIMS. There is a very large belt of the country, reaching from the northern boundary of the United States to the southern, that is quite wide in extent. That is what is called semiarid, with reference to agriculture, and is not such as you find in Ohio, Illinois, and elsewhere.

Mr. POWELL. We are not in that section.

Mr. SIMS. As we are a national legislative body, do you not think we should look to the interests of the Nation as a whole, and to developing every part of it?

Mr. POWELL. Yes; I should say so.

Mr. SIMS. Now, if there is a large section of the country that is not naturally favored by natural conditions, equal to the rest of the country, if any favors are to be shown by legislation should not this ill-favored section of the country receive the favors of legislation by Congress if any favored legislation is to be enacted?

Mr. POWELL. Not to the extent of any discriminating legislation. As I said a few minutes before, I believe each community should be entitled to the full benefits of the advantages it may enjoy, and conversely, should not receive any benefit where they are without those advantages.

Mr. SIMS. I did not ask you if you favored special legislation for that, but I said if there was to be any favored legislation, if it would not be more just and equitable to give it to the country that is less favored by nature than otherwise?

Mr. POWELL. Yes, sir.

Mr. SIMS. By and large, I ask if legislation should not be so constructed as to prevent any discrimination against that country if we are to expect it to develop to the extent of its possibilities?

Mr. POWELL. Yes, sir.

Mr. SIMS. Therefore, you think there should be no rate given to people within this illy favored section that exceeds a charge to any other section of the United States not so illy favored?

Mr. POWELL. Yes, sir.

Mr. SIMS. You were asked by the chairman about large jobbing houses that may have been established on the coast having built up under present conditions of both rail and water competition to

change it so that the coast will not have a rail rate compared to the water rate must damage that particular business. How does it materially damage these jobbing houses on the coast, provided they will continue to get the same water rate as before?

MR. POWELL. I did not intend to state, and I do not think I did, that it would materially change or injure their business. I intended to say, and I believe that I did, that it would require, to some extent, a readjustment of their method of handling the business. They can still secure their goods by water, as Mr. Mann says, at a lower rate than we can by rail, and it will depend to some extent how low their water rate is how far they can extend back to the interior. Theoretically, but not practically, it will be to the advantage of the rail carriers to prevent the distribution of water-borne goods back into the interior.

THE CHAIRMAN. My inquiry was to ascertain if there was any injury, whether the injury would principally fall on the Pacific coast jobbers or on the railroads.

MR. SIMS. Let us suppose that—say Salt Lake City; I do not know what the facts are, but let us say that the rate from the eastern section of the country to Salt Lake City is \$1.50, and from the eastern seaboard points the rate to San Francisco is \$1, but to Salt Lake City the local rate would be 50 cents, and the jobber here gets the goods at \$1 from the East instead of \$1.50; he can pay the extra freight back and meet at equal terms in the Salt Lake City territory?

MR. POWELL. Yes, sir; if those rates and those conditions were correct, except you figure the \$1 rate from New York to San Francisco for water-carried goods. The water rate would be purely a rate from the Atlantic seaboard. A very large percentage of goods carried around by water are not produced at the Atlantic ports, and they must pay a transportation charge to the seaboard and pay the marine insurance and undergo the risks, etc., and it would cost considerably more than \$1 when it is delivered around, whereas the rail rates as a rule apply from all common points in the territory, and the rail rate would apply from the point of production to the point of distribution in Salt Lake City.

Here is the point I make: The railroads perhaps could not make a dollar at San Francisco. It would not be remunerative to them, and they would have to forego the business at San Francisco at a dollar, but it is very probable, if they see large movements of certain commodities at a dollar around by water from the Atlantic coast to the Pacific coast and being shipped back to Salt Lake City, they would do some keen figuring and they might find they could not make a \$1.25 rate even to San Francisco, but they could make a \$1.25 rate 200 miles out here, and by making the rate there and shipping stuff to that point they will not control the consumption of that commodity in San Francisco or the Pacific coast ports, but by putting in a rate of \$1.25 instead of \$1.50 they will stop the distribution of these water-carried goods back to Salt Lake City.

MR. SIMS. I was trying to find out the effect on the established jobbing business as to whether or not the effect on it would be so material as to reduce the volume of business on the Pacific coast built up, as you urge, under these discriminatory and unfair circumstances.

Mr. POWELL. Our opinion is that the jobbing business and manufacturing business in the Pacific coast cities will be helped by the encouragement of water transportation, and it will not injure them to any extent. In the case we were discussing, where goods went from New York to Salt Lake City and San Francisco, if a rail rate of \$1.25 was put in 200 or 300 miles in the interior, the man who would avail himself of that rate would be the San Francisco jobber, who will have his salesmen go out and sell against what we sell. If you detract from the San Francisco jobber's business, it would simply mean a readjustment of his base of handling.

Mr. SIMS. But you do believe, as a national development and affecting the entire country, both directly and indirectly, that as to this vast section of the country called intermountain country, the legislation should not be such as to make the country already by nature unfavored even more unfavorable with respect to attracting settlers to develop the country?

Mr. POWELL. No, sir.

Mr. SIMS. Therefore you think there should be a rigid fourth-section application?

Mr. POWELL. Yes, sir.

#### STATEMENT OF H. F. BARTINE.

Mr. BARTINE. Gentlemen of the committee, I am chairman of the Nevada Railroad Commission, and my residence is Carson, Nev. I am under obligation to the committee for allowing me continuances in the matter of time before making my statement, because I am not in my usual robust physical condition. A week ago last Monday I suffered a heavy fall, which jarred and bruised and shook me up badly, confining me to my room several days. My condition to-day is not bad, but unfortunately just at the time when I should have been preparing something in concise, compact, and concrete form to lay before the committee I was unable to do so. Then I received a sudden call to come to San Francisco, expecting to be placed upon the stand Monday, but it has been postponed from time to time, and all the preparation that I have been able to make is in the form of a few rough notes, part of which have been based on points that have been developed during the hearing, and to some extent upon questions which have been propounded by members of the committee to the various gentlemen who have appeared before it.

I am not vain enough to imagine that I shall be able, under the circumstances, to make quite so lucid a statement as Mr. Mann did; in fact, it is more than likely that it will be considerably broken and disjointed, but I do sincerely hope that by the time I have finished the committee will be impressed that I am at least as logical and consistent as my brilliant friend, Mann, and I also indulge the faint hope that by the time I have concluded you will all be prepared to admit that I have given you more solid and substantial information than Mr. Mann did.

And you will pardon me, now, if I say, in appearing before you to-day, I do not represent any particular interest. I simply represent the entire State of Nevada officially, including all of its people of every kind and character, and every interest that is doing business within the confines of that State.



In the part which I have taken in these intermountain cases and other cases, wherein it has been necessary for me to engage in legal combat with the railroads, I have done so in no spirit of hostility, and I believe that the railroad attorneys who have met me before the Interstate Commerce Commission and in the courts will concede that although I have tried to fight them hard, I have always fought them fairly. I have never carried any concealed weapons, poisoned daggers, or marked cards up my sleeve to hand out to them at a particular time. I have even gone so far, before the Interstate Commerce Commission, as to come to the relief and defense of the leading railroad attorney, who was engaged in discussion there before the commission, when he was being pressed into a corner by one of the commissioners—and that commissioner the one who probably was the most friendly to my view of any upon the bench. I saw that the commissioner was mistaken with regard to certain facts, and the attorney, who, like myself, was not a rate expert, was not prepared to meet the point that the commissioner was passing. The situation became painful. In the end I arose and explained the matter. It happened to be one of those few things that I know something about. I set the commissioner right, eased up the situation, and oil was poured upon the troubled water. Thenceforth all was serene. In another case when my young and brilliant friend, Mr. Wood, was upon the other side, in colloquy with him—I think he will remember it—I stated that my position in antagonism to the railways in these intermountain cases was not due to any hostility or based upon any desire to cut and slash into the revenues of the carriers; that I was not claiming that the Southern Pacific was earning too much money upon the whole, but that I felt and believed that it was getting too large a proportion of it out of the State of Nevada.

So much by way of explanation, and if my logic—if I may dignify what I say by that name—seems at times a little severe and cutting, I want it understood that I am discussing this matter just exactly the same as I would discuss a question in court, without the slightest personal ill feeling, but, on the contrary, with the kindest feeling toward every utility to which I shall refer.

Now for Mr. Mann's statement. That gentleman has represented the traffic bureau of the Chamber of Commerce of San Francisco at just about every hearing that I have attended before the Interstate Commerce Commission. His statement yesterday that the coast cities do not claim that by reason of the deep water at their ports, they had a legal right to lower rates than were accorded at intermountain points where no such water existed—well, I have been connected with these cases for more than nine years, and I say to you gentlemen that this is the first time that I have heard any representative of the coast cities make that frank and candid admission. I do not say that they have claimed affirmatively that they had that right, but I do say that all their actions have indicated that they thought they had. Mr. Mann has appeared in all these cases regularly as attorney for the San Francisco Chamber of Commerce. Why was he there if they had no legal right? Is there any man so ignorant as not to know that every decision of the Interstate Commerce Commission must be kept between legal lines? It is well established that the commission has no right in fixing rates to consider the commercial interests of any city. That was settled in the

Willamette Valley case. Yet these attorneys have been ever present and claiming time for discussion, and it was noticeable every time all the way through in dividing up in the hearing room, they always took their places among the representatives of the railroads.

Mr. Mann concedes that it is the place of the railroads in the first instance to defend these cases and to defend their rates. That is absolutely true, but Mr. Mann and Mr. Gregson and Mr. Bradley and Mr. everybody else who has represented a coast city have never hesitated to lend a kindly and helping hand to the railroads, and you could not have failed to note yesterday from Mr. Mann's statement that no matter what his verbal meanderings may have been on every proposition put up to him affecting his rates, he always landed on the proposition that would be most favorable to the city of San Francisco. That was notably true when Senator Cummins asked him about raising the rates of the water carriers. That would not do at all. The thing had to be equalized in his mind by lowering the rates of the railroad carriers because that was clearly and manifestly to the interest of the people whom he represented.

Mr. Mann traveled a long way afield to make a labored defense of the Interstate Commerce Commission. Upon that point I have only to say that the Interstate Commerce Commission, like every other official body in the United States, is fairly open to just and proper criticism. I do not know of any official body in the United States that has not been criticized. I have even heard the House of Representatives criticized: have heard the United States Senate criticized, and I fancy there is no man in the United States of America to-day who has undergone more criticism than Woodrow Wilson. Any criticism that I may level at the Interstate Commerce Commission is not intended as a reflection upon the character or integrity of purpose of any member of that body, but, like all the rest of us, they are only human beings. They are not infallible, and, as I said before, they are not above criticism. My criticism will be of their acts and not of the individuals.

Mr. Mann told us what a high regard and kindly feeling he and his people have for Reno. He told us that Reno had been one of their best customers, and judging from the way he and those for whom he speaks have acted during the last decade I very shrewdly suspect that they are in favor of keeping Reno one of their best customers instead of allowing that city to take her place as a distributing center side by side with San Francisco, although, necessarily, on a smaller scale. He expressed confidence that San Francisco would be able to grow and thrive even without the enjoyment of the distributing trade in the intermountain country. I am prepared to concede that this little village by the sea has some prospects ahead of it, wholly irrespective of distributing goods in the intermountain cities, although I may admit that San Francisco is just a little bit handicapped in being located so far away from Reno.

THE VICE CHAIRMAN. It seems to me that Reno is farther from San Francisco than San Francisco is from Reno, according to your idea. [Laughter.]

MR. BARTINE. We have been very seriously handicapped in being so far from San Francisco, too, under the conditions which exist. Mr. Mann labored at very considerable length over the subject of

water competition, and it seemed to him to be necessary to impress upon this committee that there was water competition.

Now, if anyone representing any portion of the intermountain country has ever denied that there is water competition I never heard it. I certainly have not. On a number of occasions I have clearly and distinctly admitted the fact that there was water competition. I remember on one occasion I did it and my brilliant and bright little friend Durbrow sprang to his feet like a rubber ball and said, "There, Judge Bartine admits there is water competition." Who in the world will deny that where there is the ocean there is water competition? However, it depends on how much competition there is. A single scow passing through the canal from coast to coast constitutes competition, but how much effect would it have? That is the point. We have always admitted that the water competition exists, but we have insisted that its force and effect have been greatly exaggerated. We have also claimed that notwithstanding water competition and the coast terminals the business at these points was profitable per se.

Let me go into that just a little. The water-competition theory found its strongest indorsement and became entrenched in the policy of the Interstate Commerce Commission, as a result of the first Spokane hearing, which was held by Judge Prouty, and Mr. Mann quoted from Judge Prouty in language which implied that Prouty thought that there was not only water competition, but that it was controlling. I have always thought that Judge Prouty misspoke when he used the word "controlling." I think he simply meant to express the idea that it had an effect, because water competition has not been controlling in the sense in which the word "controlling" is generally used. At that time it was shown that the total amount of freight reaching the Washington coast line, the Puget Sound cities, was only about 14,000 tons against several hundred thousand tons brought by rail, and weighing the one in the balance against the other it seems to me a self-evident proposition that 14,000 tons of freight carried by water could not control in the broad sense the rate charged by the railroads on several hundred thousand tons. At that hearing Mr. Jackson, president of the Hawaiian Steamship Company, gave testimony on the side of the railroads. He gave it as his opinion that during the following year, 1907, the tonnage of his ships would amount to 250,000.

In 1908 the Reno case was begun. Acting as the attorney for the commission, it occurred to me that if a showing could be made that the estimate of the water tonnage was too large it would be a very important point gained. So we secured testimony from a thoroughly reliable source showing just what the tonnage was during the year 1907, the year for which Mr. Jackson estimated 250,000 tons. What do you think we found? We found that the total tonnage reaching the Pacific coast from the eastern terminals was about 77,000 tons—less than one-third of the amount of Mr. Jackson's estimate—and it was some three or four years before the tonnage reaching the coast equaled his estimate for 1907.

Now, as it seems to be in connection, let me refer to a matter brought out by Mr. Esch in regard to the Tehuantepec Railroad. He suggested that in 1909, when Judge Prouty's opinion was written,



the Tehuantepec Railroad was not in operation. Upon that point I can not speak with absolute assurance, but I am of the opinion that it was in operation in 1909, because I remember some years later when the fourth section applications were under consideration before the Interstate Commerce Commission, Mr. Jackson was again upon the stand. He was then anticipating the opening of the Panama Canal. He stated that the total tonnage of his ships was 350,000, but with the opening of the Panama Canal, the tonnage carried by his ships would be doubled. In order to show how uncertain such estimates are, I directed his attention to the fact that in 1906 he had predicted 250,000 tons for the following year and his answer was that his prediction did not make good because of trouble on the Tehuantepec Railroad. I do not see how trouble could have occurred, if there was no railroad in operation.

MR. ESCH. I think the Pierce Brothers, who owned it, were double-tracking it. I do not think they had finished all the harbor improvements at Vera Cruz.

THE VICE CHAIRMAN. Perhaps the troubles to which President Jackson referred had put it out of operation.

MR. BARTINE. Probably it did temporarily from time to time, but the railroad must have been in existence. The railroad must have been there or he would not have spoken of it in that way.

I have reason to believe that Judge Prouty's views on water competition underwent a very considerable change before he left the bench of the Interstate Commerce Commission, and I know you will pardon me if I refer to a circumstance which may seem to indicate something of egotism, for it was one in which I participated. During the progress of the first intermountain cases—Reno, Spokane, Salt Lake City, and Phoenix—I took part in the proceedings at Salt Lake City. The hearing was held by Judge Prouty and Mr. Clark, of Iowa, but in the latter part of the hearing Judge Prouty left. After Prouty left, the hearing went on before Mr. Clark alone, and by the request of the people of Salt Lake City, who had the matter in charge, I conducted the examination of the railroad witnesses. I then went around to Spokane, Seattle, Portland, and San Francisco and back to Reno. At Reno, I met Judge Prouty. Senator Newlands was present at the time, but I do not know whether he recalls the instance. Prouty greeted me and said he had been reading the testimony taken at Salt Lake City, and particularly the cross-examination of certain witnesses conducted by myself. He said he had been very much interested and had come all the way back to Reno to listen to my argument. I told him I hoped that he would not be disappointed. I went into the argument and took the whole morning.

At noon when it closed I walked down the street to the hotel accompanied by Secretary Walker and overtook Judge Prouty, accompanied by the stenographer of the Interstate Commerce Commission. He greeted me courteously and said he had been much interested in my argument and added, "I am still not convinced there is not something in the water competition; neither am I convinced that the terminal rates have not been profitable despite water competition." That was a great deal milder than anything he had said previously about water competition. But it is hard for a man to break away

from any theory to which he has committed himself, and that is one of the difficulties with which we have had to contend in the intermountain cases.

The railroad attorneys have assumed that if they could only show that there was some water competition that justified them in maintaining the differentials and discrimination of which we complain, regardless of whether it was much or little. If the tonnage rose, of course they seized upon that instantly as a strong argument in their favor. If it fell, that did not make any difference, and they fell back on the theory of potential competition. I said in the first argument in the Reno case that you can not take potential competition as a definite element to be considered in rate making, because where you have simply potential competition—that is to say, you have the ocean—you can not tell when active competition will begin, and still less can you tell how much that competition will amount to. You are dealing with an uncertain quantity, and if the ocean is to be considered a potential element controlling rates, it is safe for us to say we will never get any relief, because the ocean will certainly be where it now is as long as any of us will live.

Now, while I am on the subject of water competition I will try as best I can to complete it and say all that I desire to say upon it. I have already stated that it took several years for the water-borne tonnage to reach the figures given by Mr. Jackson at Spokane. I think for the years of 1911, 1912, and 1913 the average was about 235,000 tons. It is claimed, as you gentlemen know, that the rates at the terminals are rates that are compelled by the force of water competition.

At the first Reno hearing we had upon the witness stand the general freight agent of the Southern Pacific Co., Mr. Luce. I asked him the question point-blank, whether in making their rates they took the water carriers into conference and reached an agreement. He said they did not; they entirely ignored the water carriers. He stated they made rates to suit themselves and then let the water carriers do whatever they pleased. He stated further that the average rates by rail were 30 to 40 per cent higher than the rates by water, as an average, and yet with that schedule of higher rates up to that time the railroads had succeeded in getting 93 per cent of the business and holding it.

A marked increase of water-borne tonnage took place with the completion of the Panama Canal.

In Franklin K. Lane's decision in the fourth-section case, the Reno case that was a part of the fourth-section applications, made so by the Interstate Commerce Commission itself, he anticipated that increased tonnage through the canal and endeavored to provide for it. He prescribed a schedule of relative rates which, in his judgment, would meet the situation directly before the commission and immediately in prospect.

In the evidence at Chicago, when the railroads made their application for permission to lower their rates on the Schedule C articles, of which you have heard, it was shown that for the month of September—the first full month after the completion of the canal—the tonnage had increased to something more than 70,000 tons—I think it was 77,000 tons, or something like that—and it was estimated that

if that ratio of increase for the year was maintained the total would be 1,000,000 tons. There was only one month's tonnage before the examiner—the month of September. It so happened that this tonnage was maintained, and for that year there was about 1,000,000 tons of freight carried westbound through the canal from the Atlantic coast to the Pacific coast. Then came the slides and the European war and the traffic completely ceased.

Then Spokane and Nevada jointly appealed to the Interstate Commerce Commission to reopen the fourth-section cases and to order the railroads to adjust their schedules in strict conformity with the long-and-short-haul clause, inasmuch as the railroads had repeatedly declared that there was absolutely no justification for the differentials except water competition. They had admitted that to me on cross-examination many times and stated frequently that there was no other reason. We thought when competition of that kind had disappeared their argument failed and there was no reason why they should not conform strictly to the statute. And I want to suggest in that connection that the railroads themselves furnished no testimony whatever at that hearing, and I am making this suggestion to show in what close accord these coast cities were with the railroads. Every witness and business man who went on the stand sang a song that he had unexpired business contracts and that there should not be a change of the existing conditions. At the same time they were not averse to having changes made favorable to them on the basis of one month's showing through the canal. It seems that everything is temporary that appears to favor the railroads, and everything is permanent that appears to disadvantage the railroads. That is my experience in my own commission at home with the railroads. The up-shot was that the Interstate Commerce Commission did make its order canceling the schedule C order and requiring the railroads to adjust their schedules in conformity with the long-and-short-haul clause.

At the arguments at that time, to meet the contention that the railroads should get into line with the law and to remove the discriminations would make a serious cut into their revenues, I suggested to the commission that there were three ways in which that readjustment could be brought about—they could lower rates at the intermountain points to a level with the coast rates, they could raise the coast rates to the level of the intermountain points, or lower the intermountain some and raise the coast rates some, thus bringing them together at an intermediate level. It seems to me that the latter was the course pursued. How that will work out in the revenue sense I do not know, because I do not know exactly how the schedules stand, but it is quite obvious they could not lose very much in an adjustment of that kind, because their heaviest tonnage is at the coast, as I understand it.

I am not quite through with water competition. There are several reasons, in my mind, for believing that water competition is not the real basis for this system of rate making. In the first place, the evidence shows conclusively, and it is not disputed, that there are some 160, 170, or 180 of what we call inland terminals in the State of California that have no more water competition than has Reno. They were near the coast terminals, it is true, and if a back-haul



charge were to be applied, of course that would be less, because the distance is less. They were not entitled to terminal rates, but they had them, and it is manifest that there must have been something more than water competition that prompted the railroads to grant those rates to those inland terminals. Another reason is that the evidence in the Reno and Salt Lake City cases showed that about one-half of the total westbound tonnage carried over the line of the Central Pacific Railroad went right through to the coast terminals. Now, if it was true that water competition was forcing down the terminal rates to a point that was not remunerative, it is incomprehensible to me that the railroads would carry one-half of their tonnage at less than remunerative rates. What I mean by "remunerative" is fully and fairly remunerative. Their claim was that the rates at the coast terminals would pay something above the transportation charges, but not enough to amount to a full or fair compensation for the entire service, and upon that point I am sure you will pardon me if I restate the substance of a colloquy that took place between the general freight agent of the Southern Pacific Co. and myself at Salt Lake City. I do it for the purpose of showing the loose and indefinite character of the testimony upon which the Interstate Commerce Commission has granted these concessions to the railroads and refused to Reno, Spokane, and Salt Lake City the relief which they demanded.

Mr. Luce had made the statement that I made about the rates to the coast terminals paying something above the cost of transportation. He had to make that statement in order to make the rates lawful under the Supreme Court decisions. I asked Mr. Luce, "What do those rates lack of being fully and fairly remunerative?" He said he did not know. I said, "If you do not know how much they lack, how do you know they lack anything?" He answered, "I know it from my general understanding and familiarity with the business." Now, I understand that every member of this committee is a lawyer, and I will ask you as lawyers, How far do you think you could get in a court of law on testimony like that? Later on I said, "Mr. Luce, you say you think these rates pay something more than the cost of transportation. Do you know how much?" He answered, "No." I then asked, "How do you know they pay anything above the cost of transportation?" And he submitted the same stereotyped answer from his general knowledge and understanding of the business. Again, in the course of that same colloquy, and having reference to the excessive charge made at Reno and having in mind his own statement that the terminal rates were not profitable, being compelled by water competition, I said, "Mr. Luce, suppose a carload of freight from a point in eastern territory is carried through to Sacramento, delivered to a Sacramento merchant, and unloaded there; is that business remunerative to your company?" "No, sir," he answered. I said, "Well, suppose that, in response to a call from Reno, that freight is reloaded upon the car and sent back to Reno and charged for at the local rate, \$1.29, making the charge \$4.29 at Reno on first-class goods," which it was at the commencement of the case, "would that be remunerative?"

He hesitated. He had to, because those two kinds of rates represented pretty nearly all the business of the road, and if the through

rate plus the local distributing rate is not remunerative we are at a loss to find out where the railroad is making any profit. He finally admitted that it was. I then said, "Suppose instead of hauling that carload of freight all the way from Sacramento you drop it at Reno. You get away from that heavy haul to Sacramento. Don't you think you are getting too much from the man at Reno?" He answered "No." I said, "Why not?" His answer was that the Supreme Court had said his road did not have to make the haul. I said, "I am talking about this as a business proposition; there you have saved a haul. Counting a mile on the mountain as equal to 3 miles on the level, you have saved several hundred miles of haul, and you charge the same as if you made that haul. Have you not saved something?" I could not get anything further out of him. I am not saying this in disparagement of Mr. Luce, but because it is typical of the testimony we have had to meet in all these cases.

Now, there is a feature of this question of water competition that I would like to bring to the attention of this committee at this time. I have made the point in argument before the Interstate Commerce Commission, but it does not seem to have weighed very heavily with that body, and perhaps they are right and perhaps I am wrong. I have contended, and I thoroughly believe, that the Interstate Commerce Commission has no right to make an order authorizing the railroads to lower their rates at the coast terminals for the purpose of heading off and appropriating to themselves a portion of the traffic that would otherwise pass through the Panama Canal. The Panama Canal was built with the people's money. It is owned, controlled, and operated by the United States Government. As one feature of the Panama Canal law we have the provision requiring every ship that passes through that canal to pay a toll of \$1.20 per registered ton. A 10,000-ton ship pays \$12,000 in tolls to the Treasury, and if it comes back, as it has to, it pay \$12,000 more, making \$24,000 for the round trip.

It is impossible for the railroads to get that business without preventing some of those ships from passing through the canal, thus defeating in part Congress's purpose in building the canal. Every time a ship is stopped from going through the canal the Treasury of the United States loses \$24,000. That is the department of the Government whose duty it is to raise revenue for the support of the other departments of the Government, including the Interstate Commerce Commission. To make clear the principle, suppose that canal, instead of a world canal, were strictly American and were confined to strictly American traffic from coast to coast, do you not see that the policy that has been pursued might easily put an absolute end to that canal as a revenue producer and thus that aim of the Government be defeated? The purpose of Congress in enacting that law on that line would be defeated. Another purpose of constructing the canal was to expedite travel between the two coasts, and that purpose would be defeated by the course to which I have referred. Now, evidently in answer to that contention, in the opinion which was rendered by the commission the statement was made that the canal was only one agency, while the railroads were another, and they had to consider all. In this the Interstate Commerce Commission overlooked the broad distinction between a governmental agency and a private agency. Suppose we were dealing with taxation and the

canal instead of being Government owned was strictly privately owned. A Government-owned railroad is not subject to taxation. Suppose when the Western Pacific got into trouble the Government had taken the road over; do you think that it would have been sound policy for the Government of the United States to allow the Interstate Commerce Commission to make an order fixing rates in such manner as to put the Western Pacific out of business, which might easily be brought to pass if this policy is pursued?

I suggest further that the interstate commerce act is a law relating to commerce; the Panama Canal act is also an act relating to commerce, and it is a well-settled rule of statutory construction that laws in *pari materia* shall be construed together and in such manner as to give both the fullest effect.

I believe that water competition through the Panama Canal should be deemed an exception to the general rule mentioned in the amended fourth section.

The VICE CHAIRMAN. If the conditions are fair and just under which private corporations are operating, would you have the Government disturb them because they were competitors in the same business?

Mr. BARTINE. What is that?

The VICE CHAIRMAN. If the conditions and rates under which private corporations were operating are reasonable and just, would you have the Government, because it possesses the competing lines, to disregard water and those conditions?

Mr. BARTINE. I certainly would not, and I do not think, Mr. Adamson, there is anything in what I have said that would lead to that conclusion. I am dealing with a case where the railroads have come forward and asked for special privileges——

The VICE CHAIRMAN. Is it not the idea that if the Government owns one and private capital the other that the Government, being the regulating sovereign, should treat one as fairly as the other?

Mr. BARTINE. I do not think you get the meat of what I am saying.

The VICE CHAIRMAN. I think I do. You do not want the Government to rob itself.

Mr. BARTINE. If by legitimate competition a privately owned railroad could put that Panama Canal out of business, I do not think there would be anything wrong about it, but I do not think the Government should help it to do it by any preferential rates at the terminals. The railroads and the canal do not meet on even terms. The canal does nothing but a through business. Vessels that go through the canal load at the Atlantic seaboard and unload at the Pacific. They do not take up traffic all along the line. The railroads pick up way traffic, and when they put down their rates at the coast terminals they fall back on the interior points with higher rates and recoup their losses, something that the water carriers can not do. So, an order of that kind works an injustice in various ways: First, it is unjust to the water carriers themselves, who have just as much right to do business as the rail carriers; secondly, it is unjust to them, because the competition is not equal—it is not equal for the reason I have given; thirdly, it is unjust to the Treasury of the United States, by depriving it of money that Congress decided should go there; and, lastly, it is unjust to the intermountain country, be-



cause it widens and increases the differential and discrimination against which we have been complaining all these years. I ask you gentlemen to give these points consideration.

Mr. Mann claimed that traffic through the canal would be resumed immediately after the war. I do not know how Mr. Mann knows that. I do not think any human being can tell how soon after the close of the war traffic will be resumed through the canal on any extensive scale. The evidence shows that the ships that formerly used the canal have been diverted to other business—not to the European trade alone, but to the South American trade also, a line of trade we have been endeavoring to get for a great many years. Some of the Hawaiian steamship lines are now engaged in that trade. It is declared that the business through the canal is the least desirable that these ships can engage in, and it is a noteworthy fact that the Hawaiian steamship line was the only one that was able to sustain itself very long, and that was because the Hawaiian line had a complete monopoly of the Hawaiian sugar business. Different lines have started from time to time, but, as Franklin K. Lane said in one of his opinions, in the Reno case, the railroads never had any trouble in taking care of them.

It has been suggested here that the shipbuilding program may have a bearing, and it may, but we do not know what it will be. It is generally believed that the new shipbuilding program is very largely intended to make good war losses. Up to the present time it is quite certain that Great Britain has lost a great deal more tonnage than she has been able to replace, and the main purpose of the United States in shipbuilding on a large scale is to make good the losses sustained by Great Britain and France and some of the other entente allies. We have no way of knowing how many of these ships we are constructing will be destroyed. The more ships we have exposed the more targets there are for the submarines to fire at, and the greater and heavier the losses will be. At the hearing in Washington, to which I have referred and upon the basis of which the Schedule C order was canceled, the shipowners testified that there would be no resumption of traffic on a large scale through that canal until the close of the war. No human being can tell when it will close. We can not tell now whether it is any nearer the end than then.

They went further and said that after the war was over the conditions would be so abnormal that it would be a considerable period of time before there would be any general return to traffic through the canal, and that the ships would never go back to that business as long as they could do better in other lines; that the coast-to-coast business was the most undesirable part of their ocean trade, due to the biting and keen competition of the railroads.

There is another point in this connection brought out by Senator Cummins in one of his questions. He did not express an opinion, but the question suggested that the thought was in his mind: Assuming that carriers should lose a considerable portion of their terminal business, might not the growth and development of the country serve as more than an offset and keep their business still, upon the whole, fairly remunerative. That point is well taken. The United States is growing by leaps and bounds, and I have said in argument that the addition of 1,000,000 people to the country lying west of the

Rocky Mountains would bring to the railroads operating in that territory more business than there was any reasonable probability of its ever losing through water competition. The whole theory of the railroads in dealing with this question is that they must be permitted to make a profit at every point along their line. I do not know of any rule or any principle upon which a railroad can claim the right to make a profit everywhere, any more than anyone else can make a similar claim; certainly the railroads have no right to make a claim of that kind and realize such a profit, when it can only be done by discriminating against a portion of their patronage. I think you gentlemen will concede this. If a railroad company, on the whole, is realizing a good and substantial profit upon its business, that is all it can reasonably ask for, even if it does have to give up business at one particular point. That is one of the vicissitudes of business that stares us all in the face.

Senator Cummins propounded a question, I think, to Mr. Gardiner, bearing upon this point—because it is correlated—he asked how much the reduction of the intermountain rates to the coast level would cut into the revenue of the railroads. That question is very difficult to answer, because the subject is vast and complex and it is very hard to get the data. But I can give you some approximate figures which will be at least suggestive. As we figure it in our office by close approximation, the reductions thus far made in the Reno case, in the State of Nevada, amount to about \$180,000 a year, assuming a small increase in business since the Reno case was brought. We have figured that the reductions which we have secured amount to about one-third of the entire excess charge of which we complain. If we are somewhere near correct, the total cut into the revenue of the Southern Pacific Co., in the State of Nevada, would be about from five to six hundred thousand dollars annually upon a total earning of something like thirty million upon the Central Pacific.

With reference to whether the terminal rates themselves are fairly remunerative, let me give you some figures as nearly as I can remember them offhand. It is hard to carry these things around in one's head for years, because while I have been active in these cases I have been doing a great many other things.

Prof. Thurtell was one of our commission and he was a past master in mathematics.

It occurred to me that the claim of the railroads that the terminal rates were unremunerative might be true, and that the rates were yielding a little less than they might reasonably expect to earn. Admitting that to be so, it seems to me that the saving in transportation charges would be so great, when the freight was dropped off at Reno, that a rate that would not be quite compensatory at San Francisco would be a highly compensatory rate at Reno. So I had Mr. Thurtell take the entire mass of westbound traffic on the Central Pacific, and assume that it was left off at Reno and charged for there at the terminal rate in effect. Now, the evidence we had in the office, filed by the railroads, shows that about \$216,000,000 has gone into the Central Pacific, which was about \$146,000 per mile. That is not considered a basis of valuation for rate making. The original cost is scarcely considered at all. Judge Brewer pointed out the reason for that in the Reagan case (154 U. S.). Prof. Thurtell went about it

and he found, upon the basis of \$216,000,000 total valuation, or \$146,000 per mile, the terminal rates, laid off at Reno, would leave to the Southern Pacific Co. 7½ per cent upon the capital. He further found that, assuming the reproduction value to be \$100,000 the return would be 10.75 per cent. He still further found, upon a valuation of \$80,000 per mile, which is very much nearer the true reproduction cost, as shown by the testimony of Mr. Kruttschnitt, at Salt Lake City, the return would be 13.75 per cent. So we have assumed that the fair value of that road does not exceed \$80,000 per mile for rate-making purposes. If, upon that valuation, the return would be 13.75 per cent at Reno, it seems to me that it is impossible to avoid the conclusion that if the freight were carried on to San Francisco, the return would be at least reasonable, say 7 per cent, and that is a long way from being unremunerative. Upon a large investment like that, 7 per cent is a pretty fair return. In fact, Judge Prouty found 7 per cent was excessive in the Spokane case. I only say it is reasonable, and from that I drew the conclusion that the rates at the terminal points were reasonable in and of themselves.

A great many nice and interesting points were brought out by the queries asked by you gentlemen. I did not make notes at the time, but carried them, as well as I could, in my memory, and I will now make a few general suggestions.

The people of Nevada, I believe, are practically unanimous in believing that the only true and certain remedy is a long-and-short-haul clause. I appreciate the force of certain questions propounded by Senator Cummins in which he suggests some peculiar condition which might exist in a particular case. Laws are made on general lines. If there be any case in which a long-and-short-haul clause, ironclad, would work an injustice to anyone or do an injustice to the railroads, it has never come under my observation. We have just such a clause in our railroad commission law. It has been there for 10 years, and it has never harmed anybody, and there has never been a whisper of complaint. This morning, questioning the gentleman from Spokane, Senator Cummins suggested a case of freight hauled through to Seattle costing more than the freight which was left off at Spokane. In dealing with this matter it does not seem to me that we should indulge in mere abstractions. I can not imagine a possibility of freight from eastern defined territory being carried through Spokane and on to Seattle costing less at Seattle than at Spokane, because when it gets to Seattle it has borne all the expense necessary to bring it to Spokane and then something in addition to take it on to Seattle.

We must remember that the long-and-short-haul clause is peculiarly worded. I have only spoken of it as such in general terms, but the formula is this, that there shall be no higher charge for a shorter than a longer haul over the same line and in the same direction, the shorter being included in the longer. I can not imagine how a case could arise under that language where the cost for the longer would be less than for the shorter haul, because in making the longer the longer haul would have to incur all the expense incident to the shorter one and then some.

Much has been said about delays. I do not particularly censure the Interstate Commerce Commission for these delays, except as I think



they got off on the wrong foot at the start. I think they made an error at the very beginning which was responsible for a great part of the delay. In the first place, we had four intermountain cases—Reno, Spokane, Phoenix, Ariz., and Salt Lake City. As I suggested, we have gotten considerable relief in all these cases, but not enough. In 1910 the long-and-short-haul clause was amended, and shortly thereafter 13 railroads engaged in interstate commerce moved for exemptions from the operation of that clause. I suppose that these 13 cases were brought separately by separate petitions, but the Interstate Commerce Commission grouped them all together and considered them as if they were one. Not only that, but the Reno case and these others that I have mentioned, which had been made up with infinite labor and at great expense, were thrown into hodgepodge with the others, it being the idea of the Interstate Commerce Commission that the whole matter might be settled in one or two cases. I suggested to them that if they attempted to settle the whole situation by one or two general orders they would probably find, in the slang of the street, that they had bitten off more than they could chew, and I think they rather agree with me at the present time. This was what was done.

These petitions asked for such exemptions from the long-and-short-haul clause as would leave the rates which they then had in effect in effect for the future. In other words, that they should not be affected at all by the law. The Interstate Commerce Commission did not give them all that they asked for. It gave them a measure of exemption. I may say, in passing, that in the beginning of the Reno case the closest calculations we could make showed that the average differential against Nevada was 73 per cent in favor of the coast cities, and this in the face of a very much shorter haul. The fourth-section orders provided that from the Missouri River territory into the intermountain territory the rates should be no higher than to the coast; that from Chicago territory they might be 7 per cent higher; from Pittsburgh, 15 per cent; and New York, 25 per cent, recognizing something more in the way of water competition as you get nearer to the Atlantic coast. The railroads were not satisfied with these orders and attacked them in the Commerce Court. They attacked them not upon the ground that the commission had not given them the full measure of their demands. They did not attempt to do that, because to whatever extent an order fell short of giving them all they had asked for, it had the form and effect of a negative order, and the Supreme Court has decided that negotiations can not be appealed to the courts, because if the court gave relief where the commission refused the court would be making rates. The contention of the railroads was that the commission had exceeded its jurisdiction in establishing a relation of rates instead of reasonable rates. However, the Commerce Court sustained the contention of the railroads. I think Mr. Sims will remember that, because he was very instrumental in bringing about the abolishment of that court, and the Nevada commission, in its small way, tried to help.

The Commerce Court had reversed 23 out of 27 cases brought up to it from the Interstate Commerce Commission, and the Interstate Commerce Commission did not hesitate to indulge in a little mild criticism. But the point is this: The contention of the railroads in

that case was only a technical ground for an appeal to the court. The case was then appealed by the Interstate Commerce Commission to the Supreme Court of the United States, and in this we have a most extraordinary spectacle presented. Here is where I think the Interstate Commerce Commission, viewed from a legal standpoint, is open to criticism. The order as they made it was absolutely the only thing which stood between these railroads and an ironclad long-and-short-haul clause. We found the railroads attacking that order and the Interstate Commerce Commission defending it. There, I think, the Interstate Commerce Commission made a mistake. It should have said to these railroad managers, "You say that this order is void, and the Commerce Court has sustained you in that contention. We will take you at your word; we will concede that it is void. We will cancel it. Now, put yourselves in line with the law." That is what they should have done, I think; but, instead, they went to the Supreme Court of the United States, and it was nearly two years before that body decided it. It was submitted once, and then came a vacancy due to the death of one of the justices on the bench. Mr. Justice Pitney was appointed, and the case was reopened so that he could hear the reargument. Finally, the decision was handed down by the Supreme Court of the United States sustaining the order of the commission.

In that opinion the Supreme court declared—and it was not dictum, either—that an absolute long-and-short-haul clause was constitutional. There we lost three years. Of course, we could not force matters through the courts any more quickly.

I make the point and have made it before that these fourth-section orders, applying as they did to 13 railroads and four separate and distinct cases—Spokane, Reno, Salt Lake, and Phoenix—could not fairly be considered as special within the meaning of the word "special" as used in the statute. If an order which practically covers and includes all the westbound traffic of the United States to the Pacific coast, which applies to 13 railroads, no two of them being situated alike, every one surrounded by its own special conditions—if such an order as that can fairly be termed "special," I would like to have somebody who is better versed in the English language than I am to tell me what, in his judgment, would be a general case. It seems to me the commission has entirely wiped out all distinction between a special case and a general case and have made the word "special" of no force or effect in the statute. It is the same as if the word were not there. I suggested this at one of the hearings and one of the commissioners stated that the Supreme Court had sustained the order. True, but this point was not before the court. The Supreme Court decided the case on the issues as made. The Interstate Commerce Commission would not raise the point that it was too general, because by doing so they would have confessed error, and the railroads would not raise it because it was in their favor, and therefore it was not raised at all. Judge Archbald, of the Commerce Court, did touch it lightly, but it was purely dictum and outside of the record.

It is not to be understood that we do not trust the members of the Interstate Commerce Commission in their personal character. There is no feeling of that kind. I have not the least doubt in the world that they are all highly honorable men and men of exceptional

ability, but there are none of us perfect; none infallible; and every man is controlled more or less by his environment. The stronger he is the less that control will be, but there are very few who are not subject to environment to some extent. The manner in which these cases have been dealt with by the commission indicates to my mind that it is not strong enough and not forceful enough to be intrusted with a power like that. I go further than that and say I do not think there are nine men in the United States that should be invested with the power to make exceptions to the long-and-short-haul clause of the amended section. I have given you some reasons for so thinking by pointing out the exceedingly thin and unsatisfactory character of testimony upon which the railroad cases have been made. Every member of this committee knows that the main purpose of the fourth section was to establish an absolute long-and-short-haul clause. It was adopted as a substitute for the Dixon amendment, which provided such a clause. The idea existed in the minds of a great many Congressmen that it might be held unconstitutional and that we would get nothing. Manifestly, the purpose of Congress was to get just as near as it could to an absolute long-and-short-haul clause, at the same time avoiding any possible constitutional objection. It was thought that there might be some exceptional cases in which an exemption could properly be allowed, but primarily Congress had in mind that those cases would be few and far between—sporadic. I might say—and not so general and sweeping that one or two orders would exempt practically the whole United States from the operation of the law.

Mr. Mann stated yesterday that some 10,000 applications had been filed with the commission for exemptions. They have not been passed upon. I think I know why they have not. The commission wanted to get a decision upon the law. That, of course, was for them to determine. I am not criticising the commission's course on this point. I am only speaking of the fact that all these claims for exemption have been filed as indicating the un wisdom of having a law that permits 10,000 claims for exemptions to be filed. Obviously, if all should be granted there would be universal departure from the long-and-short-haul clause in the United States, and it would be useless.

If an absolute long-and-short-haul clause were to work injury in any case, it seems to me it must be upon a small scale and the case would be unimportant for the reasons I have given, especially when it is guarded as this one is, the short haul being included within the long haul, running in the same direction.

Another thing, that long-and-short-haul clause was amended very largely upon the strength of the strong and earnest protest that had been constantly going up from the intermountain country against the violation of that principle by the railroads. Our complaint was always about the back-haul charge, and I was amused to hear Mr. Mann say there was no such thing as a back haul and there never had been. He was mistaken. When the custom started, 30 years ago, the freight was actually hauled through and back. The return was charged for as a local rate. That certainly constitutes a back-haul charge. Later, the people complained of the delay and the railroads, seeing that it was cheaper for them to drop it off than



to haul it over the mountains and bring it back, adopted the method of dropping off the freight at Nevada points, but charged just the same as if they had hauled it through and back.

Now, this is enough to make it clear why, representing my people, I favor a long-and-short-haul clause. As I told you at the start, I am speaking in a broken and disjointed way, and I want to call attention to another fact that was disclosed by the testimony in these cases, which bears out my contention that the terminal rates are remunerative per se. Among the principal products carried to the Pacific coast are structural iron and steel. They are carried through at 80 cents per hundred pounds. At Reno, 62 cents per hundred pounds was added. We paid that as a local, making \$1.42 in all. They—the railroads—always claimed that the 80-cent rate was not fairly remunerative. Nevertheless, when the Panama Canal got into full swing, they applied to the Interstate Commerce Commission for leave to lower that 80-cent rate to 55 cents. Here was a case where they claimed that the rate in existence was unremunerative, and yet they applied to the Interstate Commerce Commission to permit them to put in a lower rate, which would mean a lost revenue of practically \$200 a car of 40 tons, and in a trainload of 50 cars would involve a loss of \$10,000. Now, if a 55-cent rate is remunerative to the extent of covering more than the cost of transportation, is it not self-evident that an 80-cent rate—about 45 per cent higher—must be, in the highest degree remunerative? It seems to me there is no avoiding that conclusion.

Now, gentlemen, I see you are looking at your watches. I was given to understand you were going to remain in session until 1 o'clock. As it is, I am leaving out some things which I had in mind to say, but I am sorry I am losing my audience.

(At this point, Senator Cummins was obliged to leave.)

Mr. SIMS. What you say will appear in the record, and we can all read it.

Mr. BARTINE. I want to give you one more reason for my belief that water competition is not the true reason for this discrimination. It is found in the fact that the entire excess charge of which we complain is levied and absorbed by the final carrier alone. Now, if it is water competition which is forcing the rates of the terminals down to an unreasonably low figure, it is self-evident that every connecting carrier engaged in that haul must suffer from that depression of rates; still the entire back-haul charge, as I have designated it, is levied by the final carrier alone and absorbed by the final carrier alone.

In the Reno case, at the first hearing, I questioned Mr. Luce upon that point and asked how the rates were constructed, taking the first-class rate as a sample. I said, "How do you make up the \$3?" (which was the first-class rate). And he said, "We and our eastern connections get together and agree upon it." I said, "Then you divide that among yourselves?" He replied, "Yes." "How about the \$1.29 excess charge levied at Reno? What agreement have you with your cocarriers on that?" "None whatever. They have nothing to do with it." "Not a thing? You levy it yourself and you take the money unto yourself?" "Yes, sir. That is all there is to it."

You can see just what principle there is involved. It is exactly the same as if you, Mr. Sims, should be making a trip across the continent from New York to San Francisco. You get as far as Reno—you have a through ticket—but you conclude you would like to stop off at Reno and stay. The conductor tells you you can not get off unless you pay him the price of the trip from San Francisco back to Reno. That is the exact situation. In a case of that kind, what would these eastern connections have to do with it? Nothing. Take another illustration: Suppose that freight, as formerly, was being carried through to the coast and then brought back by the final carrier and charged for by the final carrier, what would the eastern carriers have to do with that? Nothing at all. The mere fact that they have cut out the carriage over the mountain, and it is not carried back, does not change the principle in the least. It is an arbitrary levied by the final carrier and for the final carrier's benefit alone, and yet in all these cases the Interstate Commerce Commission has persisted in speaking of this as merely a division between the carriers. If this is a division between the carriers, I am afraid my education in the English language has been sadly neglected.

Now, gentlemen, in order that you may get away speedily, I will hurry along, and I will refer briefly to just one more matter, and that is the question of vesting all control of the commerce of this country in the hands of the Interstate Commerce Commission. Our people are absolutely opposed to that, and I think it will be an exceedingly hard matter to get a majority of the American States to ever consent to surrender all control over local traffic, even though it may remotely and incidentally touch interstate commerce. There is hardly any business on a large scale carried on in the country that has not some remote and incidental connection with business that is interstate.

The argument is one of convenience. If we are going to approach these matters from the standpoint of convenience, I might say that the most convenient government in the world is a despotism. To invest all power in the Federal Government is contrary and opposed to the organization of the American Republic. The country is vast in its extent—has an infinite variety of soil and production. We have the country divided into States, the States divided into congressional districts, and still further subdivided into legislative districts, all being intended to give to every locality full and fair representation. If we are called upon to give up control of our local traffic and hand it over to the National Government, it is an entering wedge for a similar demand concerning a great many other things. If I could be brought, under any circumstances, to favor it—and I do not know whether I might or might not, because I am as liable to change my mind as other people—perhaps there might be new developments that would have some influence with me, but as I feel now, I may say that if under any circumstances I could look with favor upon handing over this entire business to the National Government and letting the Interstate Commerce Commission take care of it, I could not possibly consent to it with the Interstate Commerce Commission organized as it is now, not saying a word against the individual members. Here we have this great country stretching

from British America to the Rio Grande River, from the summit of the Rocky Mountains to the summit of the Sierra Nevadas, more than double in area the two great central empires of Europe, standing in more pressing need of upbuilding than any other portion of the United States, absolutely without representation upon that body. There is only one man on the commission from west of the Rocky Mountains, and that is Mr. Aitchison, and he is from the coast region of Oregon, a region that has always been antagonistic to the intermountain region.

Mr. ESCH. There is Mr. Hall from Denver.

Mr. BARTINE. Denver is in a class by itself, and we have found the Denver people quite generally against us in these intermountain cases. The fixing of rates specifically to Denver is to our disadvantage. Denver is looking out for Denver. Mr. Hall is from Denver, and as far as any intimations will give a guide to a man's feelings, I will say to you—and I say this respectfully—that Mr. Hall's intimations from the bench have not indicated that he is in sympathy with the aspirations and desires of the intermountain country. He became so pointed on occasions, that I was bold enough to rise and rebuke him. It is just one of those cases of a man being influenced by his environments. Perhaps I misjudged him in that case, because he afterwards joined in this order canceling the present exceptions.

I do not want to be understood as intimating, for a moment, that there is anything wrong with these gentlemen. With the exception of the two new members, I am acquainted with them all. When I am regulated, however, in the intermountain territory by the Interstate Commerce Commission, I want to know at least that we have representation on the commission that knows a little about that region.

The VICE CHAIRMAN. There is nothing in the law to prevent the selection of such men.

Mr. BARTINE. That is so, but there is the danger of it. We are dealing with an uncertainty. The very fact that the Interstate Commerce Commission has wobbled around as it has, in dealing with these matters, shows how uncertain is our protection at the hands of that body.

Mr. SIMS. Would you have the law amended so as to require at least one member to be appointed from this intermountain territory?

Mr. BARTINE. I merely made the statement to meet the situation as it exists to-day. Even if there were a member from the intermountain country, I would not be in favor of the plan at this time. I simply urge it as an additional reason. I am not criticizing the President of the United States for not appointing a man from the intermountain territory. My understanding is that he believes any man that is big enough to hold a seat on that bench is big enough to do justice to the whole country. That is true, in a way. You can find enough able men in Massachusetts to administer the whole United States, but I do not believe the people of the country would stand for that. I know the people of Nevada would not.

The VICE CHAIRMAN. If you are ever going to have Federal control of everything, under a plan of regional commissions, in order to preserve local protection and local interests and at the same time the



spirit of our representative institutions, ought the commissions not be elected by the people of the particular districts affected?

Mr. BARTINE. I think, if we were to get to that condition, then that would be the proper way to do it. Then the voice of each particular section would be heard.

The VICE CHAIRMAN. And represented.

Mr. BARTINE. Yes, sir. As to a man being big enough to represent the whole country, that is not the question. There are big enough men in all parts of the country. I think I could pick out in Nevada nine men big enough for Interstate Commerce Commissioners.

The VICE CHAIRMAN. But if he happened to be wrong he might be too big a man.

Mr. BARTINE. Yes, sir; but an ironclad long-and-short-haul clause would be the thing. We would be much safer under a long-and-short-haul clause, even if the Federal Government had full control. In any view of the matter the long-and-short-haul clause, to my mind, is going to be of advantage. It will be of advantage to the great bulk of the people of the United States, and if it does any injury at all it will only be in very few sporadic and small cases.

The VICE CHAIRMAN. With reference to the organization of the Interstate Commerce Commission, or its reorganization, with a view to bringing the regulating power in closer touch with the communities affected, have you any views to express?

Mr. BARTINE. Why, Mr. Chairman, I recognize the fact, which has been brought out here, that the Interstate Commerce Commission is an overworked body of men. Perhaps they exaggerate the amount of work which devolves upon them, because they have a formidable corps of assistants to do the drudgery; but still there is no doubt that they have a great deal of work even after the drudgery has been done by subordinates. It is no small task to take a case after it has been made up, analyze it, and arrive at a fair and just conclusion. It seems to me it would be well to relieve that commission as far as possible by the appointment of regional commissioners, but not to abolish the State commissions. The regional commissions would be in close touch with the local conditions. The regional commissioner would sit very much as a district judge of the Federal court does. He could hear cases and render decisions, subject to appeal or revision by the main body; and it seems to me it might serve to help the Interstate Commerce Commission a great deal.

You gentlemen remember that the circuit court of appeals was constituted for the purpose of relieving the Supreme Court of the United States. It might possibly be that the same principle could be applied to these regional commissions and allow their decisions to be final in cases of no great magnitude, the parties always, of course, having their appeal to the courts in proper cases. In that way, I think, the commission would be very greatly relieved, and I think that the various sections of the country would be able to make the commission, as a whole, better understand their wants and their needs than they can now. At the present time the commission acts almost entirely through subordinates in the taking of testimony. If we want a hearing in the city of Washington we have to travel way across the continent, and it is a very expensive trip. I have been before that commission when the fourth-section cases were on—when

the total representation from the intermountain country did not consist of more than 15 or 20 people, several of them appearing in the capacity of State commissioners, like myself, and it is conservative to say that the railroads were represented by 25 or 30 highly paid attorneys and at least 100 of the leading traffic men of the United States. Why, the atmosphere was simply surcharged with railroad sentiment. We are all more or less subject to environment——

The CHAIRMAN. Take the region west of the Mississippi River, in case we could follow out the line of this suggestion regarding regional commissions. How many regional commissions would you suggest, and what would be the area of each?

Mr. BARTINE. I have not given it enough thought to figure that out. Of course, population alone would not be the only thing to consider. The wants and needs and general situation in the various sections should be taken into consideration.

The CHAIRMAN. Take this Pacific coast region. Would you have the region constitute not only the Pacific Coast States, but some of the Intermountain States, or would you have the intermountain region a region by itself?

Mr. BARTINE. My feeling would be to give the Pacific Coast States proper a regional commissioner. I would divide the intermountain territory into two regional districts, because it is larger in extent and stands in more pressing need of care and attention, and more study would have to be given to the transportation problems that arise there. It has always been the policy of this Government to pursue such course as will lead to the best upbuilding of the country. It is not a question of population. The transportation problems that will arise in the intermountain country might not be so numerous as those on the Pacific coast, but they would, generally speaking, be of great magnitude, because of the great size of the country. It is one of magnificent distances, where the hauls are exceedingly long, and of course where the haul is very long the difference in freight charges is of enormous importance to those who have to pay the charges. There are cases of some lower-grade commodities which we consume and use in the intermountain country the freight charges upon which are very much greater than the initial cost of the commodity.

The CHAIRMAN. Suppose you should divide the intermountain territory into two regions, how would you segregate them?

Mr. BARTINE. That is only a rough conjecture. I would like to sit down with a pencil and paper and figure it out.

The CHAIRMAN. You have not given that subject reflection?

Mr. BARTINE. No, sir.

The VICE CHAIRMAN. I can not understand myself the practicability of making artificial divisions of territory in which elections could be held, and yet I believe that in order to carry out our idea of representative government that if we have these regional commissions we should elect the commissioners, but I do insist, for whatever it is worth here or elsewhere, that instead of changing the system we simply enlarge the present commission. We have already taken a great step in advance. We have already authorized them to subdivide into three or more divisions. I can see that they need more men, so that the commissioners can go themselves and examine cases instead of sending clerks and subordinates. Why not increase the

commission by enlarging the commission to say 15 or 16 members and have them subdivide themselves and have it understood that they will have departments over the country and have it so arranged that the intermountain country can have two or three members, and then they can go around and hear the cases. The Supreme Court itself designates judges to go around over the country, and it seems to me to be so much easier and more satisfactory than revolutionizing the system and getting up rather anomalous plans, having regional commissions to be appointed by Washington to represent the local districts.

MR. BARTINE. I am not wedded to the regional commission idea. I simply mentioned that because it has been mentioned to me, and it was one thought that occurred to me.

THE VICE CHAIRMAN. Do you not think my idea is better—to use the present commission as a groundwork and extend that?

MR. BARTINE. I think, on the whole, it would be better to enlarge the commission itself to a sufficient number of members to cover the entire territory and have every portion of the territory properly represented upon it and have 15 or whatever number may be necessary, so that each one would stand on an equal footing with another, whereas the regional commissioners would be in a sense inferior.

THE VICE CHAIRMAN. And not only give them enough members but if the present salaries are not enough to demand the talent of the country increase the salary. We need the best talent in the country for that commission.

MR. BARTINE. You can not get into an argument with me on that subject.

THE VICE CHAIRMAN. I do not see how the suggestion about appellate jurisdiction from the regional commissioners would be as good as the system we have at present. It looked so curious to me that it appeared to be almost a joke. I have been studying the long-and-short-haul clause a long time. If your idea of establishing a system should prevail, there would be no long-and-short-haul clause. As I understand these gentlemen, their idea is they would have transportation facilities if there had not been any railroads built east of Reno to the Atlantic coast, and Reno would have paid the ocean transportation plus the local east from San Francisco to Reno. By the construction and operation of a railroad from the Atlantic coast to Reno you lose nothing and you ought to be satisfied: is not that their idea?

MR. BARTINE. That is their idea.

THE VICE CHAIRMAN. And then, if you do not lose anything, you should not complain.

MR. BARTINE. In other words, when the Central Pacific line reached San Francisco it found the clipper ships plying around the Horn supplying that port. The means of distribution were mule teams and ox teams. That was the condition that confronted the Central Pacific. It immediately proceeded to adjust the rates in such manner as to put the clipper ships out of business, and it was done, and for a number of years this so-called back-haul charge was not imposed, but the charge increased with distance as the freight came from the East. It increased with the increase in distance, although not strictly prorated. Afterwards came the other railroads across the continent.



gridironing it from east to west and others gridironing it north and south, and others coming in all sorts of ways, so that the gridiron becomes a sort of spider web, and the railroads' theory is that in fixing these rates we are still controlled by the same conditions as when the clipper ships were doing the business.

The VICE CHAIRMAN. You can not complain that you are injured because the railroads give you the same rate as formerly.

Mr. BARTINE. We are not injured directly but are deprived of the benefits to which we are entitled.

The VICE CHAIRMAN. Their theory is that if you have a reasonable and just rate in and of itself, the relationship between your rates and the port rates is entirely immaterial, because you have reasonable and just rates and you lose nothing by their going down and taking water-compelled freight at a lower rate; that you lose nothing because the water carriers would carry it anyway. What is the fact about that? They say if they have to raise their rate and lose their traffic, it will result in their raising rates on your traffic. What is the practical result of that? Are your rates higher than they ought to be because they charge you for the revenue lost on the Pacific coast business?

Mr. BARTINE. They are not higher if the method they have adopted is correct.

The VICE CHAIRMAN. They say you lose nothing anyway; that if they did not come down to the coast and take that low-rate freight, they would have to charge you higher than they now do to make up the revenue. They say they do not charge you higher by reason of taking this cheap freight at the coast. What is the truth?

Mr. BARTINE. Let us deal with this not upon abstractions but upon the facts.

The VICE CHAIRMAN. Is their rate to Reno and other intermountain points higher than if they did not take the traffic?

Mr. BARTINE. Did you hear my figures in my opening statement?

The VICE CHAIRMAN. Yes; I heard some of them.

Mr. BARTINE. They are as clear as I can state them.

The VICE CHAIRMAN. I asked you whether or not it is your opinion your rates are no higher, by reason of giving the other ports the lower rates.

Mr. BARTINE. It is the natural disposition of the managers of the railroads, the same as all other business concerns, to realize as much profit as possible. Anyone who goes into business naturally expects to realize, if he can, a fair return upon the amount of his investment. Now, if a railroad finds it is confronted by competition at a particular point, and it lowers its rates at that point so much as not to yield a fair return there, it is the natural disposition of that company to try to make good in some other place.

The VICE CHAIRMAN. Do they not do it?

Mr. BARTINE. I think they do.

The VICE CHAIRMAN. That is all.

Mr. BARTINE. I have shown that the terminal rates applied at Reno would yield an ample return.

The VICE CHAIRMAN. Mr. Bartine, I think this is a good place to adjourn. The committee will stand adjourned until to-morrow, Friday, November 9, 1917, at 9.30 o'clock a. m.

FRIDAY, NOVEMBER 9, 1917.

The committee met at the Palace Hotel Friday, November 9, 1917, at 9.30 o'clock a. m., pursuant to adjournment. Senator Francis G. Newlands presiding. Hon. William C. Adamson vice chairman.

The CHAIRMAN. The committee will come to order.

Mr. THOM. Mr. Chairman and gentlemen of the committee, when the committee came West it was our understanding that the purpose of the visit to the West was to afford convenience to gentlemen who desired to testify and who were resident on this coast and in this vicinity and that it would not be appropriate for the carriers to undertake here to consume any of the time. I desire to give notice, however, and have it understood, that we desire to present, when the committee finds it convenient in Washington, the carriers' views on this important question which has been so largely dwelt on here, namely, the long-and-short-haul clause, as well as the general subject.

The VICE CHAIRMAN. It was understood and announced at the beginning of these hearings that Mr. Thom would be heard again in conclusion, if he desired.

#### STATEMENT OF MR. H. F. BARTINE—Resumed.

Mr. ESCH. In the course of your testimony yesterday you intimated that in the earlier stages of this long-and-short-haul controversy the coast cities justified the lower terminal rate on the ground of actual water competition and later they substituted the argument of a potential water competition.

Mr. BARTINE. Yes, sir.

Mr. ESCH. But of course, at the present time, owing to the war and the need of shipping, there is no actual competition.

Mr. BARTINE. That is the fact.

Mr. ESCH. I do not know whether you expressed your own opinion as to what the situation will be when peace comes as to whether there will be actual water competition and whether or not that will be large or not. What are your views on that phase of it?

Mr. BARTINE. That is a matter which rests largely in conjecture. Mr. Esch, and I do not know that my views would have any more weight than those of any other equally intelligent man. My views to some extent are based on testimony given by the steamship managers themselves at the hearing on the basis of which the schedule C order was canceled and the carriers were directed to remove all differentials, harmonizing their schedules with the long-and-short-haul clause. But the opinion was very freely expressed that there would be no resumption of the traffic through the canal until after the war was ended, and no one could give any suggestion as to when the war would be ended; then the opinion was expressed by the steamship people that the conditions after the war would be such for a number of years—two or three at least—that other lines of ocean traffic would be more profitable than business through the canal, and the opinion was also expressed that as the traffic was resumed it would be resumed gradually through the canal and that it would take a considerable period of time before it got again into full swing, as it was at the time it closed.

My own deliberate judgment is that the traffic through that canal will never reach proportions that will seriously interfere with the traffic of the railroads.

Mr. ESCH. That is largely the point of my inquiry—whether or not it will.

Mr. BARTINE. Yes, sir.

Mr. ESCH. In arriving at your conclusions did you take into consideration the new situation of the Government with respect to merchant marine as indicated by the creation of a shipping board, and by reason of the appropriation of one and three-quarter billions of dollars for the building up of the merchant marine?

Mr. BARTINE. Taking into consideration everything, and looking at this matter as a purely commercial proposition, traffic through that canal by water will not be extended beyond the point of reasonable remuneration for those who are engaged in it; and that brings me back to a point I did not touch upon, and that is that the rail tonnage is increasing far more rapidly, by reason of the upbuilding of the country, than any water tonnage can, because the water tonnage in the main must necessarily be confined to the products of a narrow field on the seaboard, and the tendency as the country develops is to move the great manufacturing and productive industries farther and farther inland, thus maintaining the rail haul and making water traffic less desirable.

Mr. ESCH. In this connection, is it not necessary for us to keep in mind the fact that this enormous appropriation for merchant shipping, and which will produce over a thousand ships, with a tonnage of 9,000,000 tons, and the vessels that have been commandeered by the Government of private shipyards, making 2,000,000 tons of shipping, will be an enormous amount of shipping after the war is over, notwithstanding the ravages of the U boats?

Mr. BARTINE. Of course, I can not say whether that is true. No human being can say whether it is true or not, but I do say this, that it makes no difference how much money the United States may invest in new shipping; we know perfectly well that the purpose of it is to offset the ravages of the U boats, and I claim that no money invested by the United States in building up the merchant marine should be used in such a manner as to pit the interests of one part of the country against those of another.

Competition of the water with the rail would be all right if it did not result in unjust discrimination against other parts of the country and injure other parts of the country.

Mr. ESCH. One would have to leave something to the Shipping Board in that regard under the powers granted to it, but my thought is this: That at the end of the war here will be our Government with millions of tonnage of merchant ships, owned by the Government; what is the Government going to do with it?

Mr. BARTINE. That brings me back to the views which I expressed concerning the legal status of the Panama Canal. Suppose the Government does own a large number of ships, with those ships engaged in traffic between the Atlantic seaboard and the Pacific coast. Do you think it is in accord with sound public policy or a correct interpretation of the law that the Interstate Commerce Commission should make an arbitrary order allowing the railroads to lower their



rates at the coast terminals in such manner as to practically put a large number of those ships out of business?

Mr. ESCH. Would it not be possible for the Government to use those ships, and send them through the canal and thus earn back, through the tonnage tax, a part of the cost of operation of the canal?

Mr. BARTINE. Certainly, Mr. Esch; it is legitimate for the Government to do it, and it is desirable that it should do it; but as explained, every time you lower the rates at the coast terminals of the rail carriers it is for the purpose of enabling the rail carriers to get a portion of the traffic that would otherwise go through the canal, and you are shutting off that revenue.

Mr. ESCH. You are sure that is the case?

Mr. BARTINE. Yes, sir.

The VICE CHAIRMAN. I have been struck with that line of the argument, and I should suggest that he could carry it further by suggesting the benefit to the country by taking away that business from the railroads, permitting the railroads to develop the interior of the country.

Mr. BARTINE. I have that in mind, Mr. Adamson, but I can not express everything in an hour or two. I feel if the railroads were deprived of this privilege which they have been claiming of lowering their rates at the coast points that they would be actually forced to use more endeavors to build up the intermediate country, which would mean to them a very large number of comparatively short hauls at very much higher rates, because the short hauls are always paid for at higher rates per ton per mile than the long hauls. The intermediate traffic would be more profitable than the coast traffic, especially as the coast traffic, as it is claimed, only brings a rate a little over the cost of actual transportation.

Mr. ESCH. The thought I have in asking these questions is that after peace will come there will be a very considerable water-borne traffic between the coasts and traffic which will be protected against competition under the coastwise law, and therefore traffic which would be owned by the Government, and which probably the Government could not dispose of to other powers or would not dispose of it to other powers. What should the Government do with it?

Mr. BARTINE. I am very sure that I do not know, but if my idea prevails there would be a great deal less trouble devolving upon the Government and a great deal less loss than comes through the maintenance of existing conditions. Suppose the Interstate Commerce Commission, by an arbitrary order, allows the railroad carriers to lower their rates so as to take unto themselves a large amount of the tonnage which would otherwise be carried by ships through the canal, the effect would be to put a large number of those ships out of commission and means a loss to the Government. I do not believe that the Government would stand for it very long, and that is what they are doing now with respect to the Panama Canal, because the principle is identical. Because I am earnest, Mr. Esch, do not think I am losing temper.

Mr. ESCH. Oh, we are trying to elicit your views, and I know every member of the committee wants to get your views, because you have studied the matter.

Mr. BARTINE. I have been used to debating all my life, and you know as well as I that you can not get anywhere in debate unless you are earnest.

Mr. ESCH. As to the blanket rates eastbound, how wide is the zone?

Mr. BARTINE. I do not know the exact geographical boundary lines of the various zones. There are some six or seven of them. If you will allow me, as you have brought up the zone theory, may I enlarge a little on that point?

Mr. ESCH. Certainly.

Mr. BARTINE. Senator Cummins in questioning some of the witnesses wanted to know why the people of Nevada, with a shorter haul, were satisfied with the same rate that was accorded to the coast terminals with a longer haul. That exact question was propounded to me by Judge Prouty at the first argument of the Reno case in Reno. Speaking from the bench and interrupting me, he asked me if I could see any reason why Reno should not have a lower rate than Sacramento or San Francisco. I was compelled to admit, in principle, I could not, but I said the railroads themselves had adopted the zone theory or system, and that the Interstate Commerce Commission had accepted that zone theory as sound, and such being the situation, we did not feel we had the smallest chance of securing the application of rates on a strict mileage basis, and we felt that if we had rates as good as those to the coast we would at least be upon an equal footing and would have no grievance to complain of.

Mr. ESCH. Now, you still have not answered the question as to the extent of the blanket eastbound.

Mr. BARTINE. I can not, Mr. Esch. I am not a rate expert and have not followed that closely. I have endeavored to deal with these questions on broad principles.

Mr. ESCH. You are aware of the fact that under the zone system with the blanket provisions it is possible for the Pacific coast cities, and even the intermountain cities, to get the same rate for the eastern terminal points as to the cities east of the Rocky Mountains and the Missouri Valley?

Mr. BARTINE. I should not suppose that the Pacific coast cities could get the same rates to the Atlantic coast as points 1,500 or 2,000 miles nearer the Atlantic coast.

Mr. ESCH. Suppose you found that the intermountain cities and intermountain States under the blanket system got the same rate as the Mississippi Valley—

Mr. BARTINE. I would not expect it. We would expect to pay something in addition, because of the greater length of haul from the intermountain country.

Mr. ESCH. And such a blanket rate would give the intermountain cities the advantage over the cities immediately east of the Rockies on eastbound traffic?

Mr. BARTINE. No; not under the long-and-short-haul clause, because under any circumstances we could not get any lower rates than they, and we would be only put on an even keel. We are not asking for an advantage; we are asking to be placed on even terms, and that is what the long-and-short-haul clause, as it is formulated, is intended to do. It is not a mileage proposition. It simply provides that there shall not be a higher charge for the shorter than for the longer haul.

Mr. ESCH. That is the statute.

Mr. BARTINE. That is the statute.

Mr. ESCH. The application of these blanket rates on eastbound freight has given rise to a great deal of complaint on the part of communities and whole States in the central portion of the country, because they contended it brought a competition from a great distance which they ought not to bear, and that they ought to have the natural advantages of their own section with reference to their own products. I merely cite it to show how difficult it is to make any rate scheme that will not cause some complaint in some part of the United States.

Mr. BARTINE. I am not optimistic enough to believe that it will ever be settled in such manner that some one will not feel he has a grievance, but we want to eliminate the worst grievances we have.

Mr. ESCH. Yesterday you intimated, with reference to the regional control of traffic matters, that you would prefer a region for the Pacific Coast States proper and possibly two subdivisions in the intermountain country. Do you think it would be better in a wise administration of traffic matters to make your regions based on State lines or geographic lines or based on traffic area?

Mr. BARTINE. Well, I should say upon geographic area rather than State lines and rather than population, for this reason: Take the State of Massachusetts for example. If it were physically possible, you could set 100 such States right down in the intermountain country and then have a good-sized margin all around. At the same time Massachusetts contains just about as many people as there are in the whole intermountain country. But the transportation problem in the intermountain States is vastly more important than it is in Massachusetts because of its small area and shortness of their hauls, and you will pardon me if I say that in reading the decisions of the Interstate Commerce Commission, I have been interested and amused in noting the fuss that is made in the eastern parts of the United States over a difference of 1 or 2 or 3 cents per hundred pounds in the freight rate on a given commodity between two points, it being claimed that there is a discrimination, and if they make such a fuss over 1 or 2 or 3 cents per hundred pounds, how must the intermountain territory feel when there is a differential of anywhere from 50 to 75 cents per hundred pounds against them. I bring this out just to emphasize the importance of the transportation questions of the intermountain country, with distances so great, thus making the freight rates a vast item.

Mr. ESCH. You would prefer to adopt a regional system based on geographic lines, rather than traffic areas?

Mr. BARTINE. I would say geographical lines, certainly, because if you have the geographical lines the traffic area is necessarily increased, and where there is a very large area of territory affected, there is very much more chance for the traffic area to be increased.

Mr. ESCH. In your opinion if regional commissions were appointed, and that system of administration of the law were adopted, would it lead to expedition or would it add to the delays?

Mr. BARTINE. Well, I think I admitted in colloquy with Judge Adamson yesterday that I thought it might possibly make for delay. Now, understand me, Mr. Esch, I am not committed to this regional system at all. I would look with favor upon any method which



would lead to a better geographical distribution of the membership of the Interstate Commerce Commission, the increase of its effective working strength, by an increase of the members or otherwise, but I am not committed to any particular method of doing that thing, but this thought has occurred to me: There is a great deal of weight, I think, to be attached to the suggestion of Mr. Adamson that the Interstate Commerce Commission itself could be increased and the 15 members, or whatever number might be fixed upon, taken fairly and impartially from all parts of the country so that all should be represented. Then let these individual commissioners go and hold hearings in the various districts, just as the Federal judges pass around and hold sessions in the various circuits of the United States, and then I would go a step beyond that, I think—now, this is just a crude idea—I would go a step further and make a ruling similar to that which applies by law to the Circuit Court of Appeals. I would let the decision of an individual commissioner who hears a particular case stand as a finality in cases of comparatively small magnitude, drawing the line at some reasonable point. That would do no harm, because the individual still has his access to the courts as now, if he feels that he is wronged.

Mr. ESCH. If you have the regions, whether 8 or 12, there would always be the likelihood that the regional commissions would give diverse opinions upon traffic questions, although the questions might be identical in the different regions. You would therefore have a diversity of views as far as the divisions were concerned, and unity of decision could only come in cases of appeal to the final commission in Washington. Would that be a disadvantage; would that work against a plan of that kind?

Mr. BARTINE. I do not think so. There are diversities of views now. It is barely possible that under the regional system that diversity might be increased somewhat and possibly it would, but in the last analysis these views would have to be brought into harmony either by the commission as a whole or by an appeal to the courts that would lay down rules which would be harmonious and applicable everywhere.

Mr. ESCH. Of course the district courts in the United States now render very different opinions upon the same facts and under the same state of law.

Mr. BARTINE. That is one thing we must reckon with. We must always realize that absolute perfection in Government is not possible. We can not undertake to remove every evil that confronts us. Our aim is to remove those that are most pressing at the time, and in that way we move on toward better government.

Mr. ESCH. I think I have no further questions.

Senator CUMMINS. Judge Bartine, for myself I desire to say that I have been very much impressed with your graphic statements on this situation, and I am thinking of pursuing for a minute an inquiry that I proposed to a former witness. The interstate commerce law lays upon the carriers two fundamental obligations, as I understand it: the first is contained in section 1, and for a preliminary I intend to read it:

All charges made for any service rendered or to be rendered in the transportation of passengers or property and for the transmission of messages by

telegraph, telephone, and cable, as aforesaid, or in connection therewith, shall be just and reasonable, and every unjust and unreasonable charge for such service, or any part thereof, is prohibited and declared to be unlawful.

The second command is found in section 3, a part of which I will quote:

That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

It is true, is it not, that practically the entire interstate-commerce law is built around those two provisions and intended to carry them into effect?

Mr. BARTINE. Those are the basic propositions, undoubtedly.

Senator CUMMINS. And whatever we do in the way of amending the law ought to be done toward a better and more complete enforcement of these two fundamental proposals?

Mr. BARTINE. That is true.

Senator CUMMINS. Do you regard the fourth section as intended to fortify the provision which declares that all rates shall be just and reasonable, or to fortify the provision that declares that undue or unjust preference or advantages to any person or any locality shall be unlawful, or both?

Mr. BARTINE. Now, Senator, you have laid a foundation for a question by reading from three separate sections of the interstate commerce law. The question is an exceedingly broad one, and will you pardon me if I take it up and answer it in my own way, having in consideration all three of the provisions to which you have referred?

Senator CUMMINS. I should be glad to have you do that.

Mr. BARTINE. Well, the first section provides that all rates shall be just and reasonable. No rate can be just and reasonable if it is a discriminatory rate. I do not construe the words "just and reasonable" to refer merely to the amount of the rate in dollars and cents. In one of his leading opinions Franklin K. Lane, who, in my judgment, is as able a man as ever sat on the bench of the Interstate Commerce Commission, stated that a community is entitled to something more than what would be a reasonable rate measured by dollars and cents. The community is entitled to a nondiscriminatory rate. Section 3, which you have read, is intended to reinforce that section by directing attention particularly to the matter of discrimination, which was almost as frequently complained of as the rate. But there was one form of discrimination that had been extensively practiced, or had been carried so far and made the subject of so much complaint that it was deemed necessary and proper to make that a matter of a special section, and that is the long-and-short-haul proposition embodied in the fourth section. Primarily, the fourth section mainly is intended as an additional safeguard against discrimination, and not standing by itself, having in mind the imposition of rates which should be just and reasonable per se, irrespective of any question of discrimination. But, in passing upon the fourth section orders of the Interstate Commerce Com-

mission, the Supreme Court of the United States says that all three of these sections should be construed together. Do I make myself clear?

Senator CUMMINS. Perfectly clear; and what you have said leads me to another inquiry. In applying the section which prohibits undue or unjust preference or advantages, it is true, is it not, that there must be considered the factor of competition between the localities affected?

Mr. BARTINE. The factor of competition is proper to be considered in all cases, I think, where there is no Government regulation, and I am not prepared to say that it should not be considered reasonable and proper in all cases. Upon that point I tried to make myself clear yesterday. Where there is competition at a given point—I think Senator Cummins himself suggested to Mr. Gardiner or asked Mr. Gardiner if he had considered the case of two railroads meeting at a certain point and competing. Every business in this world that is not subject to regulation is done on the broad principles of competition, but my position is, with regard to that, that in regulating the rates on railroads the Interstate Commerce Commission should never make an order solely for the purpose of enabling one carrier to compete at a given point with another carrier, whether rail or water, upon even terms, in such manner as to injure some one else. If railroad A and railroad B come together at a given point, they are in competition. It may be that railroad B has a more circuitous route, or it may have a rougher route to travel.

The VICE CHAIRMAN. But does not Senator Cummins in his questions have reference to competition between different points?

Senator CUMMINS. I was about to say that I did not make myself quite clear. I did not intend to bring into my question the fourth section at all. I was basing it entirely upon the third section.

Mr. BARTINE. Yes; but I think, Senator, you did refer to the fourth section and ask if it was intended to guard against discrimination.

Senator CUMMINS. I did formerly; and I did not separate the two things sufficiently in my last question, but I put it differently. Assume a rate from Chicago to Portland imposed upon some given commodity; another rate from Omaha to Reno, there being no competition between the localities affected with respect to the commodity covered. Reno could not, under the third section, question the propriety of the rate from Chicago to Portland as being an unduly preferential case.

Mr. BARTINE. It could not, there being no competition between them.

Senator CUMMINS. Although considering the rates in and of themselves there might be great disparity between them as compared with the service rendered in the two hauls.

Mr. BARTINE. But Reno would be in nowise injured.

Senator CUMMINS. Precisely; and therefore, in construing and applying the third section of the interstate-commerce law upon a charge that any given rate is unduly preferential or discriminatory, there must be, as a basis, a competition in business between the localities affected by the rates.



Mr. BARTINE. I think that is the case. That is intended to cover a situation where roads are actually in competition or where communities are in competition.

Senator CUMMINS. Now, disregarding the fourth section for a moment and supposing that it is not in the law at all, if Nevada were complaining, or the people of Nevada were complaining, of a rate to San Francisco given in each instance upon westbound traffic, it would be necessary to show that Nevada or its territory is in competition with the territory of California in business and that the disparity between the two rates injuriously affected the business of Nevada, would it not?

Mr. BARTINE. It would be, and I think it has been shown. That is what we have insisted upon.

Senator CUMMINS. I am examining it abstractly. I want to see, if I can, in what respect the law should be modified or strengthened to bring about more perfect justice.

Mr. BARTINE. Yes, sir.

Senator CUMMINS. Now, in all your proceedings before the Interstate Commerce Commission, that has been the underlying thought, has it not?

Mr. BARTINE. It certainly has.

Senator CUMMINS. And you have shown, or believe that you have shown, all the time, that the lesser rate given to the terminal points injuriously affected the development and growth of your community?

Mr. BARTINE. We have tried to do that, and I think we have succeeded.

Senator CUMMINS. Has that vital and fundamental proposition ever been disputed by the coast points?

Mr. BARTINE. Yes, sir; it has. It has been disputed in this way: They have persisted in carrying us back to the days of the clipper ships and ox teams, and have insisted that the true method of rate making was to take the water rate to the coast plus the additional charge the railroads might make—plus the local charge back from the coast to the interior points—and in that way they have claimed that we have obtained the very best natural rates, but of course entirely ignoring all the improvements that have taken place, denying to us the benefit of the railroad system that has been constructed and built up in this country, and, as I said before, keeping us back in the age of the clipper ships and ox teams.

Senator CUMMINS. Without regard to that, have they ever denied that you are in competition with the terminal territory and that you would develop faster if you had a rate that was properly proportioned to the terminal rate?

Mr. BARTINE. Well, they may have possibly denied that in a vague, general way. They have assumed that Nevada was developing just about as rapidly as its natural resources would permit. There has never been any satisfactory showing upon that point at all. It was never satisfactory to me, and I have always combated it, because it stands to reason that an unfavorable freight rate is a hindrance to the development of any community.

Senator CUMMINS. You believe, I assume from the general course of your argument, that even if there had been no fourth section in the

law you would have been entitled to the relief which you ask at the hands of the Interstate Commerce Commission?

Mr. BARTINE. I have not the slightest doubt of it, Senator Cummins.

Senator CUMMINS. So that without any modification of the law, even with the elimination of the fourth section in your case, justice, from your standpoint, would be secured?

Mr. BARTINE. I have not any doubt about it, provided, of course, that the law was properly administered.

Senator CUMMINS. Now we come to the fourth section. Your view of it is that in no case should the privileges given in the fourth section, if any are given, be extended to a case in which a violation of the third section would not be permitted?

Mr. BARTINE. Oh, I think that is fair. I think the fourth section is intended to make this one particular form of discrimination perfectly clear and objectionable and to guard against it specially.

Senator CUMMINS. I understand that view, but if the Interstate Commerce Commission had been convinced of that, in the absence of a fourth section, the intermountain case was complete and furnished a reason for a remedy, is there anything in the decisions of the Interstate Commerce Commission to indicate that it is fair to give that section, namely, the fourth section, an application that will destroy the third section?

Mr. BARTINE. I should say certainly not. It is an established rule of statutory interpretation, as you know as well as I do, that all statutes and parts of statutes in *pari materia* should be construed together and be made to stand together as far as possible.

Senator CUMMINS. I am thoroughly familiar with the decisions of the Interstate Commerce Commission, and in this connection I do not remember any reference in any of them to that point, that in allowing the exception provided for in the fourth section of the act they are, in fact, neutralizing and nullifying the third section of the law.

Mr. BARTINE. The only thing I can recall, Senator, is the expression I have just mentioned as coming from Commissioner Lane, and that only touched it remotely, that a shipper is entitled to something more than a just and reasonable rate. He is entitled to a nondiscriminatory rate, which would indicate to me—

Senator CUMMINS. Do you believe that if the fourth section had not been in existence that Reno and Spokane and Salt Lake would have been given relief long ago under the third section?

Mr. BARTINE. Well, it is asking too much of me to request me to state an opinion upon that point, because we would have had to deal with the Interstate Commerce Commission, and then we would have had to deal with the courts, as the matters were contested there; but it is my opinion that we would have been better off in all these cases without the amended fourth section.

Senator CUMMINS. If I have correctly interpreted your argument or your statement, the effect of it is, it is believed on your part that the fourth section, as applied to this western situation, instead of being a fortification of the third section, which forbids discrimination, has been used to sustain a discrimination.

Mr. BARTINE. I think you are absolutely correct in the conclusion which you have drawn in reference to my testimony, and if it will not break in on your thought I should like to give a reason. May I?

Senator CUMMINS. Certainly.

Mr. BARTINE. If the fourth section had not been enacted every railroad practicing discrimination would have been the subject of a complaint. There we would have had a special case, and each case would have been decided upon its own merits. The fourth section was amended, and the Interstate Commerce Commission has so construed that law, that any number of railroads may join in petitions and the commission may then make a general and sweeping order covering the whole United States and call it special. For that reason we are worse off than we were before.

Senator CUMMINS. If, then, as between the two alternatives of maintaining the fourth section as it is and repealing it entirely, making no provision in the law with regard to the long-and-short haul, I take it that you are of the opinion that the country would be better off, relying upon the third section alone, forbidding discrimination.

Mr. BARTINE. I certainly feel that way, Senator Cummins.

Senator CUMMINS. Why would that not be, after all, the best solution of that question, with a positive prohibition against discrimination, leaving the Interstate Commerce Commission to apply that rule without any exception at all; that is, I mean undue or unjust discrimination, of course? Why would not that, in the end, with an intelligent and, of course, honest Interstate Commission, do more to bring about a proper adjustment of the railroads of the country than anything we can provide?

Mr. BARTINE. For the simple reason, Senator Cummins, that you are putting the whole matter up to the Interstate Commerce Commission, which is composed of nine members, not one of whom is infallible, and in dealing with each particular case under that third section the Interstate Commerce Commission would take into consideration all the facts and circumstances, and it might find cases which, in its judgment, would justify a higher charge for a shorter than for a longer haul. Now, if we have a plain, simple, brief provision prohibiting that particular form of discrimination then the Interstate Commerce Commission is deprived of all jurisdiction upon that point and can only deal with other forms of discrimination.

Senator CUMMINS. I do not even mean to suggest that what I am about to say applies to this western situation, but can you not conceive a case in which a greater charge for the shorter distance would be fair and would not result in any discrimination between localities?

Mr. BARTINE. Well, it would impose a considerable strain upon my imagination. I think I stated that yesterday. I can not conceive of a case and can not think of one in which a higher charge for a shorter haul along the same line in the same direction is justifiable. I can not imagine a case.

Senator CUMMINS. Viewed from the standpoint of the cost of service and operating expenses, I think you are right—at least I can not conceive of any such case—but viewed from the standpoint of the development of the country, it seems to me there may be such a case, but I agree with you that it always ought to be done with no unjust preference or discrimination.

Mr. BARTINE. Yes, sir.

Senator CUMMINS. And I would like to see the law so amended, if it needs amendment, that that shall be the supreme command of the



statute, that each community shall have its fair chance to grow and develop, and, of course, be entitled to reasonable rates, and I have been suggesting these things because they have been running through my mind, and I have them in mind, and because this blanket rate is utterly mysterious to me. I do not understand why Reno should have the same rate to the East that San Francisco has, or to pay the same rate, and have the blanket rates as far east as Omaha—I do not think it does—but if it does, why Reno should get into the East at the same rate as Omaha gets into the East. There may be reasons for these things, but they are not obvious to me.

Mr. BARTINE. May I make a suggestion there?

Senator CUMMINS. Yes, sir.

Mr. BARTINE. I am not here for the purpose of defending the zone system, which, of course, means the blanketing of rates, but I think I can see what the motive of the railroads was in establishing these zones and blanketing the rates as they have. Unless you have the zone system, you are going right back upon the mileage basis, if you consider nothing but distance. The fixing of rates upon that basis is almost impossible. It is at least impracticable, because there are so many communities and so large a number of commodities.

Senator CUMMINS. I perceive that, and, of course, the zone system must be admitted into any practical adjustment, but the zone system can easily be abused just as easily as the long-and-short-haul clause. When the Government undertook to establish a zone system for the shipment of parcel-post matter these zones were reasonably narrow and have been practically all constructed upon what might be assumed to be the cost of service. But when it is said that California has a certain rate on citrus fruit to the eastern part of the United States, and then when they began to grow it in Arizona, that Arizona should pay the same rate, that seems to be a widening of the field unnecessarily and unreasonably, possibly. What do you think of that?

Mr. BARTINE. In view of the fact there are only six or seven zones in this vast domain of ours, I think your suggestion is a very good one and entitled to a great deal of weight. I have no doubt the zones are too large and great and varying conditions might arise in the same zone. A zone is based generally on the theory that the conditions are substantially the same throughout the entire zone, but if the zone covers an area of 500,000 square miles it is likely that there may be varying and different conditions in the zone. I think if the zone system is preserved that it might be well to make the zones smaller.

Senator CUMMINS. If I gather the views of the railways correctly in establishing these zones—and they are in all forms and cross each other at a thousand different points—they have tried in a general way to annihilate distance and to give every community producing a certain article an even opportunity to get into the market with that article on even terms. I have mentioned one of the cases of the lumber rates from the northwest part of the country to the Mississippi River Valley or the Mississippi and Missouri territory, in which there was an attempt made to enable the lumber of this country to get into this territory at about the same rate as lumber from the southern or northern part of the country got in at. Now, just how

far we should disregard what might be termed the cost of service theory, in order to put in the postage-stamp theory in this country. I do not know. It seems to me that that question is involved in all this discussion about the long-and-short-haul clause.

Mr. BARTINE. Yesterday I suggested that every man was controlled more or less by his environment. You could not have failed to note from my statement that I am approaching this subject from the viewpoint of the intermountain country in which I am especially interested, and in which discrimination had presented itself in the most aggravated form. It is only natural that I should do this because I have lived in that State not, like my young friend Gardiner, 8 years, but 48 years. When you consider my extremely youthful appearance, you would hardly believe that, but it is one of those painful truths that we must admit at times.

For 40 years of that period I have taken an active part in the public life of that section and, naturally, I approach this great question from the standpoint of the Intermountain States and their interests. In all that I have said with regard to the long-and-short-haul clause I have had in mind the charging of more for a shorter than a longer haul on the same line within the formula of the statute. I recognize the fact that a haul from the north of 100 miles might be very much more expensive than a similar haul from the south, but that would not come within the principle of the long-and-short-haul clause.

Mr. SIMS. Mr. Bartine, speaking of the blanket system of rates, the present rates on parcel-post traffic is upon the blanket or zone system, is it not?

Mr. BARTINE. Yes, sir; I believe it is.

Mr. SIMS. I do not know how many there are.

Senator CUMMINS. Seven, I think.

Mr. BARTINE. I have never had anything to do with it.

Mr. SIMS. I suppose you will admit, for a short haul, including all unloading and forwarding expenses on a given quantity of freight, it is more expensive per mile on account of these charges than it is on a proportionately greater haul.

Mr. BARTINE. I think there is no question, Mr. Sims, that the cost per ton per mile is greater for a short haul than for a longer one if there is any material difference in the length of haul. I think it is generally conceded.

Mr. SIMS. Have you ever heard of the railroads proposing to carry parcel-post packages to the sixth zone for less than they carry them to the fourth zone?

Mr. BARTINE. I have never heard of their doing that, but the Parcel Post Service is purely a governmental proposition and the Post Office Department has been operated without any regard to distances. There has never been a time when it cost any more to send a letter from New York to San Francisco than from New York to Jersey City, because the Government is not in the business for the purpose of making money. I do not know what the arrangement is between the Government and the railroads in regard to carrying parcel-post matter. I do not know what it is.

Mr. SIMS. The parcel-post matter is purely a traffic and freight transaction, it is not?

Mr. BARTINE. It is between the Government and the railroad.

Mr. SIMS. The actual service performed by the railroad company is a freight-traffic service; it is not a passenger service—of course, I am not speaking of the first-class mail matter—but the conveying of parcel-post matter is simply the carrying of what the express companies would carry, what the railroads would also carry, if the Government did not take charge of it, and the railroads do actually carry it as far as that is concerned, but the entire adjustment of rates on parcel post is by the zone system, is it not?

Mr. BARTINE. I could not say that that is entirely true. It may be, but, as I say, I have had nothing whatever to do with that, but knowing what little I do about governmental affairs, I may say that the carrying of the parcel post is purely a matter of contract between the Government and the carriers, the carriers making the best contract with the Government that they can, and inasmuch as, in its general mail service, the Government has never considered the element of distance at all, it is possible that that same principle would be maintained in the carriage of parcel-post matter.

Mr. SIMS. It does make a difference as the law is enacted and carried out; the Government charges one fee or price for zone 1, and a different price for zone 2, and so on, increasing as the zones increase in distances.

Mr. BARTINE. Yes, sir.

Mr. ESCH. You might make your analogy more perfect by citing the zone system as applied to express rates.

Mr. SIMS. I have my mind on this other proposition now. Before the Government took from the railroads the carrying of this package freight—certain packages as go now by parcel post—the railroads performed that same service before and covered the whole country, although it is true they did it through the form of express companies, but the express company is nothing but an arrangement by which the railroads still carry the business, and do the work, but get rid of a lot of clerical work, and detail work, and expense that they would otherwise as railroads incur. But the zone system, which is simply nothing more than a blanket system of rates between certain distances, applies absolutely without exception, as I understand it, throughout the United States as far as the delivery of parcel-post packages is concerned. Now, suppose the steamship companies should say, on the Pacific coast and on the Atlantic coast, to the Government of the United States, "We will carry all these packages that the railroads do, the same distance the railroads do, or to the same points that railroads carry them, for 60 per cent of what the railroads carry them," would the railroads then, do you suppose, come in and make a proposition to the Government that "We will reduce our charge 60 per cent on all water-competing parcel-post service?"

Mr. BARTINE. Of course, I have no way of knowing what the railroads would do in that case. Like my learned and distinguished predecessor, Patrick Henry, I have only one light to guide my footsteps, and that is experience. It would be up to the Government, and optional with the Government, as to whether or not it made a contract of that kind.

Mr. SIMS. I catch your idea.

Mr. BARTINE. May I go further?



Mr. SIMS. Yes.

Mr. BARTINE. I am dealing with this whole matter as a practical proposition. The carriage of parcel post does not present the question of discrimination, which is the evil we are complaining against. Those packages are small in bulk and weight, and the stuff in general is not carried in wholesale bulk for the purpose of being distributed and sold, or anything of that kind. Now, it is not hard upon A to pay a certain rate on a parcel-post package, if point B farther on got a similar package at the same rate or a lower rate, which, as a matter of fact, he does not. But the objection we are making is not that we should have the benefit of the shorter haul, but that we should not be charged any more. That is all. But, in the parcel-post arrangement, while I am not familiar with it, I am perfectly sure there is no higher charge for a shorter than a longer haul on the same line in the same direction.

Mr. SIMS. There is absolutely none, and I was trying to make it apply to the present situation; that if the railroad carrier can not perform a service as cheaply as the water carrier, that the water carrier should not be prevented from carrying it as low as it can or is willing to carry it.

Mr. BARTINE. I have taken the position all along that the water carriers have as much right to live as the rail carriers, and it is to the interest of this country to build up ocean carriage, which was one of the purposes of the construction of the Panama Canal, and one should not be permitted by artificial means to beat down the other.

Mr. SIMS. But suppose the steamship lines plying between the Pacific and Atlantic see a vast amount of parcels-package stuff passing between these two sections of the country, and say to the Government of the United States, "You are sending these packages by the railroads. Now, we will carry them for just half what the railroads do and take the entire business from coast to coast." Suppose this amounted to \$100,000,000; suppose the Postmaster General comes to Congress and says, "We have this offer to carry these packages for \$50,000,000 less than the Government pays now." Suppose he says it will be just as well to carry them that way and asks Congress what to do? Do you not suppose Congress would say, "You accept the \$50,000,000, provided they can serve the people of the country as well"?

Mr. BARTINE. I think I catch your idea now.

Mr. SIMS. Now, the railroads come along and, as far as the coast-to-coast packages are concerned, say, "We have to run our trains in connection with the other mail service, and we will take this stuff at that rate." Would not Congress say, "We will let it go that way; anyhow, Congress saves \$50,000,000 and the people are served"?

Mr. BARTINE. Congress has a right to do as it pleases for the best interests of the people, but we are dealing with the Interstate Commerce Commission, which is not making laws but is administering laws. I think, if you will pardon me, Mr. Sims, that a more parallel case would be this: Suppose the Government made this advantageous contract with the water carriers and then the Interstate Commerce Commission should step in and make an order allowing the rail

carriers to apply the same rate at the coast terminals—which, I might say, I do not think would come within its jurisdiction; I do not think the Interstate Commerce Commission could regulate the rate on mail matter, and I do not think it would attempt it——

Mr. SIMS. They do now. They consider it in making ocean rates.

Senator CUMMINS. That is only between the Government and the carrier. It does not affect the rate paid by the person who receives the package.

Mr. BARTINE. That is so, but suppose the Government had an advantageous contract of that kind with the water carriers and that contract was to run a considerable length of time, as they always do, and suppose the Interstate Commerce Commission steps in and makes an order that puts those water carriers out of business?

Mr. SIMS. I do not think the Interstate Commerce Commission could overrule the direct authority of Congress to accept the lowest bid.

Mr. BARTINE. I was thinking of the principle, because that presents a parallel case.

Mr. SIMS. Do you not think the Parcel Post Service, as far as it goes, has been decidedly of advantage and to the best interests of the public as compared with the former express service?

Mr. BARTINE. Well, taking it as a whole, I would not be able to say whether it has or not. The express service in our section of the country has always been exceedingly good. I do not think the Parcel Post Service is any better, and, as a rule, it is only used, generally speaking, for the carrying of small packages, but I am really not in a position to say whether it is better or worse, because we have had nothing whatever to do with that.

Mr. SIMS. It is much less cost to the people.

Mr. BARTINE. Well, that is an advantage.

Mr. SIMS. It has been less than they formerly paid.

Mr. BARTINE. Yes, sir.

Mr. SIMS. Is it not a fact that it is a better service and more prompt service than express service that is given?

Mr. BARTINE. I can not say that it is in our section. It may be so generally.

Mr. ESCH. The Government does not have a collection service and express companies do.

Mr. SIMS. Which is a very unnecessary service. When I left Lexington last October I bought a Tennessee ham, and in order to be sure I would get it in time I expressed it and watched them load it. Three days later the man with whom we were stopping sent by parcel post some fresh string beans. We got them, but not the ham, and I do not know when we will get it. The railroads seem to have paid more attention to the mail matter, as to which they have a Government contract, than they did to the express matter.

Senator CUMMINS. You ought not to tempt the employees by putting a ham in their possession.

The VICE CHAIRMAN. Ham was more tempting than the string beans evidently. [Laughter.]

Mr. SIMS. My information, as far as it has gone, taken by and large, including the rural service, is that the Parcel Post Service is one of the most popular services in the United States, and it is nothing but a transportation service, being the transportation of

such stuff as goes as freight and not intelligence, and making a ham postal matter was simply an act of law, and therefore making a matter mailable is nothing but statutory law.

The VICE CHAIRMAN. That is what you call *malum prohibitum* and not *malum in se*.

Mr. SIMS. As far as I am concerned, I can not see any difference in principle, whatever, in mailing a ham and mailing a book the same way the same distance, or at the same cost, or sending it by express or freight; and it seems to me we should view this question from the by and large viewpoint, what is best for the whole country in all the details and ramifications of service to be performed. Having seen your State and having gone through it, and thinking it has not been as much favored by the Maker of the surface as others have, in legislation I think you should have a square deal; but we have to decide the matter with all the evidence before us.

Senator CUMMINS. The railroads claim that the Parcel Post Service is not profitable, from the fact that the Government has made the railroads carry the parcel-post matter for nothing for the last four or five years. We make contracts for weights, and we made them only once in every four years. I have heard this complained of.

Mr. BARTINE. Mr. Sims carried me into a new field and took up the matter of parcel-post transportation, something with which I have had nothing whatever to do, and to which I have given no thought, and my answers are "right off the bat," to use a slang expression. In order to be secure on the record, I want it understood that I am not definitely committed to anything with regard to the Parcel Post Service.

The VICE CHAIRMAN. I make the point that we should not discuss the parcel post without the presence of Judge Moon.

The CHAIRMAN. Your contention is that the public interests require that the rail carriers should not be permitted to drive the water carriers out of business through the Panama Canal?

Mr. BARTINE. That is my contention—by legal methods. If they can do it by natural competition, of course, they may.

The CHAIRMAN. How far do you think the rail carriers should be permitted to go in the line of competition?

Mr. BARTINE. I think they should be permitted to go just as far as they possibly can without practicing discrimination against their patrons, who are removed from the points of competition; for example, if one of these transcontinental lines wishes to lower its rates at the coast in order to meet competition, they should be permitted to do so, but it should not be permitted to do so under circumstances that would work a wrong and injustice to the people of Reno and Winnemucca and Elko. They should scale their rates justly.

The CHAIRMAN. You believe that the public interest requires that, as far as the general public is concerned?

Mr. BARTINE. Yes, sir.

The CHAIRMAN. Now, with reference to the interests of the coast ports, what do you think would be the effect upon them and the jobbers in these coast ports, and the prosperity of the coast ports generally, if the policy upon which you insist should be carried out?

Mr. BARTINE. My opinion is that the coast points, upon the whole, would be benefited by removing this discrimination. The objection to the contention of the intermountain territory, on the part of the



cost cities, has always come from the jobbing interests. Now, the amount of the jobbing interests involved is scarcely a drop in the bucket here in the State of California compared with the aggregate of business. If this change were made which we ask for, these jobbers could never be put out of business. They would only be deprived of a very small part of it, and that is the jobbing trade which consists of redistributing goods they have received from the east. It would still be in a position to job all the products of California; and if that resulted in the upbuilding, as it undoubtedly would, of the intermountain country, it would furnish a very much better market for the products of California.

The CHAIRMAN. Do you think the jobbers are principally engaged in jobbing the products of California?

Mr. BARTINE. Yes, sir.

The CHAIRMAN. Your contention is that the enlargement of the population of the intermountain region would be to great advantage of the coast cities?

Mr. BARTINE. Why, I think there is no doubt about it; and taking Nevada as a sample, you will pardon me if I toot that State's horn a little bit.

The CHAIRMAN. Certainly.

Mr. BARTINE. The commercial travelers and drummers have repeatedly said that, in proportion to population, the State of Nevada is the best market in the United States for the sale of goods. It has always been a State where high wages prevail, where high price levels obtain, and the worker has been well paid for his services. He is a liberal spender and buys largely the best quality of goods. Now, if the population of Nevada were increased—we will say 100,000, to follow your question propounded to Mr. Gardiner the other day—there would be 100,000 additional consumers in the State of Nevada, and the railroads in bringing freight from the East would save, in the first place, by leaving off the goods there in Nevada, making the haul very much shorter and reducing the cost of transportation. That is only one thing. There would be a population of 100,000 added along the lines of the railroad. These 100,000, I should venture to say, on an average, would buy and consume twice as much as the same number of poorer people in San Francisco, because they are able to do it.

The VICE CHAIRMAN. If the chairman will pardon me, would not that hundred thousand additional people also produce something additional for the railroads to haul out?

Mr. BARTINE. Surely. If they were there, they would certainly be doing something, and we are now, thanks to Senator Newlands's water projects, engaging more largely in agriculture. One hundred thousand people would have to be doing something, and there would be not only more goods brought in but more goods carried out and more goods traveling from point to point in the State, while the 100,000 people living in San Francisco would simply receive the goods and consume them, and that is all there would be to it.

The CHAIRMAN. The State of Nevada is mainly served by the Southern Pacific Railroad?

Mr. BARTINE. Yes, sir; and I think for a great many years it will be mainly served in that way.

The CHAIRMAN. I believe, with you, that Nevada has been the Southern Pacific's neglected asset. I wanted to ask you whether, so far as the Southern Pacific is concerned, 100,000 people added to the population of Nevada would be of more benefit to it than 100,000 added to the population of San Francisco?

Mr. BARTINE. It seems to me, Senator, that what I have said practically answers that question. I think they would be very much, for the reasons I have given you.

The CHAIRMAN. Then I understand you to contend that the public interest demands that the water service, as the cheaper service, should not be lessened by any artificial action.

Mr. BARTINE. That is my position; yes, sir.

The CHAIRMAN. You also insist that, so far as the port cities of the Pacific coast are concerned, engaged in the jobbing business, those cities and the entire production of California and the Coast States would be benefited by a policy which would increase the population and the industries of the intermountain regions.

Mr. BARTINE. They would be benefited and at the same time a rank injustice would be wiped out.

The CHAIRMAN. You have also claimed that the interests of the intermountain region itself would be largely enhanced by this policy?

Mr. BARTINE. I have no doubt of it.

The CHAIRMAN. Have you any idea as to whether the transportation of rail tonnage has increased of late years?

Mr. BARTINE. Only a vague idea. I will not say vague, but a very general idea. When the Spokane case was under consideration in 1906 the estimate was that the total amount of rail tonnage reaching the coast was 3,000,000.

The CHAIRMAN. When was that?

Mr. BARTINE. Eleven years ago, in 1906. In all subsequent hearings that figure, 3,000,000 tons, was accepted as being approximately the amount of rail tonnage, the assumption being that there had been no increase, although we knew that our western country had grown immensely during that time. Still, in our hearings, the rail carriers, in defense of the coast rates at the terminals, have constantly dwelt on the increase of the water tonnage, assuming that the rail tonnage remained the same. Just before the hearing in Washington which led to the cancellation of the schedule C order I wrote to the traffic officials of the different railroads reaching the Pacific coast, asking for specific figures as to the amount of their tonnage. The Western Pacific was in the hands of a receiver at that time, and in one week I got the tonnage from that road. It was comparatively small, because the road was in a bad way, but every other road politely declined to give the information, saying it was too much trouble and too expensive. When we argued the matter before the Interstate Commerce Commission I requested that the commission require the railroads to furnish the figures showing the amount of westbound tonnage that reach the Pacific coast. It could compel it. A State commission, of course, could not do so. I do not know what action, if any, the Interstate Commerce Commission ever took upon that request—I think it took none—but among the witnesses who testified there was a very prominent official of the Pennsylvania

Railroad. I do not recollect his name, but he was evidently a man of high standing upon that road, a very intelligent man. He was asked the question point-blank if he thought that 7,000,000 tons carried by rail was an overestimate, and he said he did not. He said he thought it was a moderate estimate, for the reason that there was about a million and a half tons of structural iron and steel alone.

Now, that is a little in the way of a basis to go on. There is no doubt in the world that these figures can be secured. Along that line, Senator Cummins has asked some of the witnesses whether the water competition was ever such as to put any considerable portion of the railways' equipment out of commission. The evidence at that time showed that the equipment was thoroughly employed, and had been even during the time when the traffic through the canal was at a high figure; that there was a congestion of freight in the railroads and an embargo directed. Then, at that time, I introduced as exhibits the petitions of the Southern Pacific Co. to the California commission and to the Arizona commission, asking leave to incur an indebtedness of \$6,000,000 for the purchase of new equipment, partly to replace old and worn equipment and partly to meet the increasing demands of new business, all of which goes to show that the traffic to the coast must be increasing, and that it has always amounted to as much in volume as the railroads could handle.

The CHAIRMAN. Then the largest tonnage that you have heard mentioned in these proceedings that would be likely to go through the canal, if the canal had the free opportunity to carry that tonnage, would not exceed 7,000,000 tons?

Mr. BARTINE. That would be the entire amount carried by rail.

The CHAIRMAN. That is the rail tonnage, then?

Mr. BARTINE. Yes, sir.

The CHAIRMAN. Very well. Now, then, the amount that the railroads would lose would not exceed 7,000,000 tons?

Mr. BARTINE. They would have to lose it all to lose 7,000,000 tons, if that is the correct figure.

The CHAIRMAN. Very well; we will assume that the water carriers through the canal should make rates so low that it would get all the coast-to-coast tonnage. Have you any idea what that tonnage would be?

Mr. BARTINE. Only in a rough way. We have the figures in our office, but I can not carry them around in my head. I suppose of the 7,000,000 tons of coast-to-coast traffic that which would naturally move by water probably would not exceed one-fourth of the total that moves from the Atlantic seaboard, because the railroads furnish the more desirable service. If you will permit me, Senator, I wish to say that latterly the railroads have rather concentrated their efforts upon retention of the tonnage from the Atlantic coast seaboard region to the West, because it is from that region that the tonnage to the Pacific coast mainly moves by water; and upon that point—having again in mind, Senator, Senator Cummins's suggestion about the development and growth of the interior country—I desire to say that the Atlantic coast region must naturally expect to lose some of that coast-to-coast trade through the development of the country. The natural effect of the development of the country is to move the great manufacturing industries farther and farther back,



and it has already been carried to such an extent that Cleveland, Detroit, Chicago, St. Louis, Omaha, Kansas City, and even Denver have become great manufacturing centers. They must, of necessity, take a great deal of business from New York and other eastern cities. New York will always have a great field, but it must expect to yield much to the interior of the country, because the tendency of all commerce is to seek the shortest lines of carriage.

The CHAIRMAN. Assuming that there are ships ready to transport everything that could go through the canal, would there not be a large tonnage that would come to the intermountain range from the region to which you refer, the Mississippi Valley, and so forth?

Mr. BARTINE. The evidence shows that the quantity from that section which has been carried by water is negligible; that any competition of that kind is what our railroad friends call potential. It has been claimed that there is water competition between Iowa and the Pacific coast, and long years ago evidence was given showing that there had been a shipment of 3,000 tons of starch from Iowa, by water, to the Pacific coast. I think it was carried by rail to New York and taken by water to the Isthmus and across the Isthmus to the Pacific Ocean and up the Pacific coast to San Francisco. We have had those 3,000 tons of starch blown into our faces ever since. We have heard of no other water-borne freight from Iowa.

The VICE CHAIRMAN. Why did it not come down the Mississippi River from Iowa? That is potential, is it not?

Mr. BARTINE. I do not know anything about that.

The CHAIRMAN. Assuming the water carriage was developed to the highest degree, so that ships were available to carry at reasonable rates, the result of competition between each other, tonnage through the Panama Canal, whether that tonnage originated on the Atlantic coast or in the intermountain region. I wish to get some idea of how much tonnage the transcontinental carriers would lose by that operation, assuming that the water carriers were at the highest degree of efficiency.

Mr. BARTINE. It is not so much a question of water carriers being at the highest point of efficiency as it is the amount of freight available for transportation that way. I have indicated that at the time the schedule C order was made the tonnage through the canal during that period of time was at a very high figure, and it was undoubtedly due to the fact that business men held back their shipments awaiting the opening of the canal. There are only certain classes and kinds of goods that can be advantageously shipped by water, being those in which the element of time is not important and those not likely to be damaged by salt water, storms, and so forth. These goods had usually come from the Atlantic ports, and it appeared at that time the ships had carried the maximum, which was about 1,000,000 tons. That 1,000,000 tons, added to the 7,000,000 tons carried by the rail carriers, amounted to 8,000,000 tons in all. So the amount carried by water was only one-eighth of the whole, or one-seventh of the rail carriage.

The CHAIRMAN. Assuming that the water carriage through the canal was developed to a much higher degree of efficiency than existed at that time and that the rates were what it is claimed, namely, that the water carriage through the canal can be profitably conducted

for \$6 a ton, and assuming that the canal would get the entire 7,000,000 tons that you speak of of transcontinental traffic instead of having only 1,000,000 tons, that, at \$6 a ton, would make \$42,000,000 for the transportation of that 7,000,000 tons through the canal to the Pacific coast. Now, then, on the other hand, assume that the railroads carried that 7,000,000 tons, at a cost of \$15 a ton, which would make \$105,000,000. Taking into consideration the interest of the entire Nation, do you think it is best that the service should be accomplished at a cost of \$42,000,000 by the water carriers or \$105,000,000 by the rail carriers?

Mr. BARTINE. Senator, you are suggesting a proposition now that, to my mind, is altogether abstract and a condition that can not possibly arise. I am endeavoring to keep this question down to a practical basis, so far as I can. If you consider just those two figures, I would hardly know what to say. I would say, considering the country as a whole, I think it would be better for the rail carriers to carry it at the rate named. It would mean more for the development of the country.

The CHAIRMAN. At \$15 a ton?

Mr. BARTINE. Yes, sir; because that is simply a coast-to-coast proposition, while the rail carriers would pick up enormous quantities of freight along the lines, local and otherwise.

The CHAIRMAN. But they would not be prevented from doing that—

Mr. BARTINE. What is that?

The CHAIRMAN. The railroad carriers would not lose any business except the 7,000,000 tons? Supposing both these carriers are in existence—

Mr. BARTINE. I suppose you had in mind that that was the entire business of the rail carriers. In that case, putting it that way, I would say it would be better to have the water carriers carry the freight, if it can be done just as effectively.

The CHAIRMAN. From the standpoint of the public interest, it is much better that the service should be done for \$42,000,000 than for \$105,000,000?

Mr. BARTINE. Certainly; I did not quite catch the full scope of your question.

The CHAIRMAN. I believe in the full development of water carriage of this country and of every river from source to mouth, and I think it has been a very mistaken policy that has led to the almost extinction of water carriage, with a view to enabling the railroads to monopolize the carriage. I understand why they would be contentious for tonnage during the periods of their existence when they were the pioneer carriers reaching out for traffic, and I can understand why, as a business matter, they would resort to every expedient to take away and impair the water carriers in order that the rail carriers could absorb it, but we all know now that the railroads have gotten practically to the capacity of their equipment, and it seems to me it is unquestionable that it is to the public interest to develop water carriage to the fullest extent whether on rivers or lakes or the great waterways, provided along the Atlantic coast line.

Mr. BARTINE. I fully concur in that.

The CHAIRMAN. I think, also, while I would be anxious to have that policy adopted, without any radical wrench, without imperiling

the prosperity of any community such as these port cities, etc., I believe the time has now come when these things can be done with positive advantage to the railroads themselves and to the port cities and every interest affected. I do not see how the processes of readjustment can injuriously affect anyone or anything.

Mr. BARTINE. Along that line, let me make one statement: I am in accord with that view, and it is my impression—and I will carry it further—it is my firm opinion that, under the utmost stimulus that can be given to ocean navigation by this country, there will always be an abundance of business for the railroads. The country is so vast in its extent that it is simply impossible, having a narrow fringe of coast line on each side, that if that traffic were all taken from the railroads, to put them out of business.

The CHAIRMAN. How about the cost of service in Nevada as contrasted with the general transcontinental service, we will say, from the Missouri west?

Mr. BARTINE. Why, it may sound strange to some people, considering the sparse population and apparently small business of the State of Nevada, when I say that the ratio of expense to earnings of that portion of the Central Pacific line traversing the State of Nevada is lower than it is on any other portion of the Southern Pacific System. That was shown by the railroad people themselves the first time we locked horns with them in a legal proceeding. They filed affidavits by their auditor showing that the cost of transportation in the State of Nevada was less in proportion to their earnings than obtained on any other part of the system. The reason is that it is nearly level and easily traversed. There are no hard mountain climbs within the State of Nevada, while outside, both ways, there are difficult and very expensive transportation problems to meet.

The CHAIRMAN. You were speaking to me about the effects in this connection, with reference to proposed increases in railroad rates, in order to meet the war expenses—the so-called 15 per cent increase. Suppose you state to the committee what your views are with reference to that.

Mr. BARTINE. The railroads of the country have an application pending before the Interstate Commerce Commission asking leave to make a general increase of their rates, amounting to 15 per cent. Upon that point I am in accord with Mr. Mann, and it is one of the very few things connected with this question of transportation that I do agree with him about. I do not think that a horizontal raise of 15 per cent or any other percentage would be just, because there are some freight rates now that are higher relatively than others, and if you raise them all 15 per cent it would increase the differential. Now, that point comes right home to us in Nevada. When that first petition for a horizontal advance of 15 per cent was filed by the railroads, we forwarded a protest against it, claiming that the action was then premature, that the developments had not proceeded far enough to justify the roads in asking for such an advance, and that in no event should it be horizontal. Then we proceeded to point out that the average scale of rates in the State of Nevada was much higher than almost anywhere else—certainly higher than anywhere else upon the systems of railroads which traverse our States, and if



there was a horizontal advance or any advance, as long as that differential existed, it would widen the spread and increase the differential against us. As an illustration: Suppose the rate to San Francisco was \$1, a 15 per cent advance would make \$1.15; suppose the rate on the same product or commodity was at Reno \$1.50, there is a differential of 50 cents. Suppose we add 15 per cent to that. It is \$1.725; instead of having a 50 cent differential, it is 57½. Therefore, we asked the commission to remove those differentials and put us upon an even keel, and then so far as providing fairly for the railroads is concerned, we will stand our share.

The CHAIRMAN. Mr. Bartine, it appears that the Interstate Commerce Commission on the 30th of June, this year, made an order which met the expectations of the people of the intermountain region. Is that the fact?

Mr. BARTINE. That is the fact.

The CHAIRMAN. It did meet their expectations?

Mr. BARTINE. That is the fact.

The CHAIRMAN. That order has been suspended in order to enable the commission to inquire into the reasonableness of the increase of the rates consequent upon that order?

Mr. BARTINE. Yes, sir.

The CHAIRMAN. And assuming that the commission will act upon that within a reasonable time, and that the order of June 30, 1917, will become effective, what need is there of legislation upon this subject?

Mr. BARTINE. The need for legislation is this: In the very opinion to which you refer, the Interstate Commerce Commission suggests that upon the recurrence of water competition the matter can be reopened and proper concessions made to enable the railroads to meet that situation. As long as it stands as it now is, and with the interpretation placed upon it by the Interstate Commerce Commission, we are at the mercy of that commission, and we will never know when the change may come and restore the grievances which we have been fighting so long.

The CHAIRMAN. Your contention is that even if water competition is fully restored that this discrimination should not be again authorized?

Mr. BARTINE. My contention is that there never has been water competition to justify it, and my belief is that there never will be.

The CHAIRMAN. Your contention is that even if that water competition is made fully effective it ought not to operate in such a way as to create a discrimination against the intermountain region?

Mr. BARTINE. Certainly.

The CHAIRMAN. We are now in war, Mr. Bartine, and there is, of course, a reluctance upon the part of Congress to engage in any legislation that would be disturbing particularly to the transportation interests upon whose successful operation really depends the success of the war. Now, what have you to say with reference to that?

Mr. BARTINE. I have to say, Senator Newlands, that we have watched the course of the railroads since the war declaration was made with feelings of profound admiration. They have come to the aid of the Government with a magnificent patriotism and a desire to help that leaves nothing lacking, as it seems to me. I am willing, as

I said before, that any legislation which is reasonable and which is necessary to enable them to meet the increasing burdens which they have taken upon themselves and are taking, but I am altogether unable to see how any pressure brought about by the emergencies of the war can possibly justify discrimination against any portion of the railway companies' patronage. Wipe out the discrimination and then give to them all reasonable relief—

THE VICE CHAIRMAN. I suppose Judge Bartine is aware that in recent legislation we made provision that the commission, if it found it proper, could allow a higher rate for material transported under the preferential order of the President.

MR. BARTINE. That, of course, would have a bearing.

THE VICE CHAIRMAN. That is war legislation. It may, by reason of compliance with the President's order, find it reasonable—the commission may allow higher rates.

MR. ESCH. Under the order of June 30, 1917, the discriminations permitted under the fourth section will, of course, be eliminated. That will permit the intermountain section during the period of the war, and for a certain period beyond that, to enjoy a level of rates with the coast terminals.

MR. BARTINE. The order of June 30 would put us for the time being—as long as it stood—in exactly the same position as if we had an ironclad long-and-short-haul clause.

MR. ESCH. And would eliminate the discriminations between the intermountain and coast terminals on schedule C commodities?

MR. BARTINE. Yes, sir.

MR. ESCH. You also stated in your opinion it would take several years after the war ceased before there could be a full restoration of water competition.

MR. BARTINE. I think so.

MR. ESCH. If that is true, that would permit the intermountain section, for the period of the war, and for a period of years after—say three or four years—even rates with the coast terminals. Do you hope, or do you expect, that during that time the intermountain country can show such an advance in growth, development, and prosperity as to give you the final and conclusive argument, should the railroads seek to restore this differential?

MR. BARTINE. Now, you are leading me again into the field of conjecture. I have no idea of what the development will be. It is purely a matter of conjecture, as to when water competition is to be restored. If we are to judge from the way the Interstate Commerce Commission has acted in the past, it would take only a little water competition for that body to restore the differentials that have been removed. I do not know what the development will be, and I think we have already made our case. The great principle of right and wrong is involved, and whether we grow or not, we are entitled to a fair deal.

MR. ESCH. At any rate, some valuable experience will have been gained.

MR. BARTINE. It will take time to demonstrate such things, I admit. But we have had many long years of experience in these matters, but others have monopolized most of the substantial benefits.

**STATEMENT OF S. J. WETRICK.**

Mr. WETRICK. I am the attorney and manager of the transportation bureau of the Seattle Chamber of Commerce and Commercial Club, which organization I represent here, and I am also authorized to speak on behalf of the Tacoma Commercial Club and Chamber of Commerce, which is not represented here.

Before I go ahead I want to allude to just one thing that was the concluding part of the examination of the previous witness, and that—for fear I might forget—and that is what may be shown by the fact that the transcontinental rates to the intermediate and terminal points will, under the order of June 30, 1917, be equalized, and assuming that that is to continue for, say, from three to five years, as Congressman Esch suggested, I want to suggest in that connection that whatever that might do would probably not be a good or fair criterion of what might be done under normal circumstances, when the coast cities would have the water competition. I say that because our contention in these matters is that the interior is not harmed or injured; because, even if we were deprived of the lower rail rates, we would still be in a position to obtain the goods by water transportation at the cheaper rates which water transportation affords, assuming that there is maintained a wholesome competition between rail and water carriers and that that is not prohibited by an artificial law, such as it is proposed that Congress shall establish. The point I make in that respect is obvious, I think, that it will not be a test of what will happen in normal times. There being an absence of water transportation, the carriers will handle, no matter what the rates may be, all the transcontinental traffic; and the conditions which will always exist in normal times, under which we will have the advantage of low water rates, will not exist at that time. It is safe to say, therefore, that the effect upon the coast cities will be much more severe under the present circumstances than it will be during normal times, and, conversely, the benefit which the intermountain cities will derive will be much greater, a condition which, in the nature of things, would not be true during normal water competitive times; and in this connection I want to read into the record what Commissioner Harlan said in his dissent to the decision, as a result of which the order of June 30, 1917, was promulgated.

The argument which he here makes is an argument which the Interstate Commerce Commission, as an entire body, has repeatedly made; the only difference at the time of the rendering of this decision between the entire commission and Commissioner Harlan being whether, during present temporary conditions, there should be a change. So I think I am safe in saying that the entire commission would agree to what Commissioner Harlan says here during normal water competitive conditions. He says:

The readjustment now required by the majority is to continue, as their report indicates, only during the remainder of the war and until commerce again moves through the canal. If the resumption of the water traffic may reasonably be anticipated in the near future, the disruption coming nearly three years after the war commenced of the present relations between the Pacific coast and the intermountain territory would seem to be entirely unnecessary and undesirable. But even if the war condition should continue, and the resumption of commerce through the canal should not take place for two or three years longer, that would be but a moment of time compared with the



period during which the present rate relationship has existed, and compared with the indefinite future during which, so far as we may now see, that general relationship must continue, because of the fixed and lasting character of the controlling natural conditions that we have been considering.

Now, of course, the question here is whether by a law we shall change what natural conditions have always compelled and forced. He goes on to say:

The temporary interruption of the present relationship, either for a few months or for several years, if the war conditions continue so long, can contribute nothing of substantial or continuing value to the prosperity of the intermountain territory. Its only effect will be to put the two territories temporarily out of line with what must necessarily be the course of their future relationship.

I say that must necessarily be the course of their future relationship, whether an absolute long-and-short-haul clause is enacted or not, because the sea is always with us and water rates will always be afforded us, so that the only effect, you may say, is that we will be deprived of an additional and competitive service, which, as I will attempt to show later, is to the interest of the intermountain States that it be maintained. Continuing:

During the period of the interruption the merchants of the intermountain cities may have a larger business than they otherwise would, while the merchants of the coast cities may have to pay materially higher rates on their traffic. The business of the intermountain jobbers will be speeded up, while the business of the coast jobbers will be slowed down. These advantages, however, will be but temporary; that will not be constructively helpful to the intermountain territory or be of real aid in its future upbuilding; and in the meanwhile the merchants of both the competing territories will be left in perturbation and doubt respecting the contracts and commercial engagement that they may safely make while the purely provisional rate adjustment required under the majority report is in effect.

Now, as I say, that will be the effect, undoubtedly, and largely because of the fact that there is not now any available steamship transportation. It has seemed to us that it was rather unfortunate that because of the complaint of the intermountain cities the coast cities should even during this temporary time, when there is no water transportation, when there is no cheaper transportation which water affords, be deprived also of the lower rail rates which that water transportation has forced contrary to the wishes of the carriers, because it was their idea that they should be permitted to maintain the rate structure upon which the business has been built up which during normal times must exist. I have been led to say what I have said so far because of the point upon which I started, with regard to what will happen during the temporary situation which will be brought about by the order of June 30, 1917.

I was rather surprised during the course of the hearings so far, in listening to the representatives of the intermountain cities, to find that in Nevada, even, they should have any doubt as to whether we who represent the coast cities have any right to appear in a matter of this kind without being selfish or being charged with being selfish.

We contend that the natural normal condition at the coast cities is one of water competition and that, therefore, when we take the position that we are entitled to competitive terminal rates we are simply asking what natural conditions force. In that respect I go further than Mr. Mann did, and think that we have a perfect right to take an

independent position upon this question, because of the fact that the carriers are forced to meet the competition whether they desire to do so or not, and our purpose is to see that the condition is maintained under which the natural conditions which existed and which the carriers must meet and the things which are incident to and inherent in our location upon the sea, will remain. In this our position is not as selfish as that of the intermountain cities—and when I say selfish I have reference not at all to what it might be intimated the coast cities have in mind when they insist upon this, that is that we are insisting upon something that we know is unjust and improper—but I am willing to concede to our friends in the intermountain country that they are actuated by honest and conscientious belief, and trust we may be accorded the same consideration in that respect.

As I have said before—and that is demonstrated by what the course of procedure has been—the rates to the intermountain cities, as a result of this order of the Interstate Commerce Commission of June 30, 1917, will not be reduced. The coast rates, on the other hand, are raised to the level of the intermediate rates, and, in fact, the tariffs which are proposed name some advances to the intermountain as well as to the coast terminals, so that the effect of the controversy has been not to give the intermountain cities lower rates, or will not be to give them lower rates, but a material advance of rates which the people in the coast cities will have to pay. Now, the only good that does to anybody is that it establishes a different relationship between the coast and the interior jobber. That is all, and it seems to me that any such view of the situation as that entirely overlooks the interest of the producer and the consumer, who does care what the amount of the rates is and is not interested merely in a relationship of rates. Now, by way of illustration, because I come from the north coast, I mention the situation at Spokane. Spokane and Seattle, as this committee knows, are in the same State. Generally they cooperate and work together very well. There are differences in this situation which they have not been able to reconcile very well, but they are operating in a way very well. Spokane, we will say, is 350 miles inland. It is not located upon the ocean, where it can have the benefit of water competitive rates, and therefore entitled to, as with us, rail rates reasonable under all the circumstances, or such lower rates as the water competitive rates to the coast plus the local back give to Spokane. Looking at it in one way, you might say that since Spokane is located in the interior and not accessible to the low water transportation rates that her purpose and the purpose of the other intermountain cities in this matter is to maintain an equality in the westbound rates between the intermountain territory and the coast cities, by depriving the coast cities of the water-competitive rates which natural advantages and conditions force. Being unable, as I say, to get directly the benefit of water rates, is not their position and their purpose, contrary to their interests, as we believe, to maintain an equality with the coast cities by depriving us of the water-competitive rates?

So I say our position here is that we are saying to this committee or to anyone else having these matters under consideration, not that the carriers shall be forced to meet this competition; not that we have a legal right to enforce it or that we are entitled to lower rail

rates, because we have no legal right to enforce it; but if no restrictions are placed upon the natural conditions which exist, the carriers will be at liberty to meet the water-compelled rate if they so desire, and we are actually deprived of what the commission has repeatedly called a natural advantage; and that if the privilege of the carriers in meeting the water rate is taken away, that that is without any compensatory advantages to the intermediate territory.

I want to say something about the decisions of the commission since 1910, without repeating anything, except to make the point that I wish to make, that has already been said, and particularly the fact that as to the policy of the Interstate Commerce Commission to consider no applications for fourth-section relief pending the time that the commission's order of 1911 was on appeal to the Supreme Court of the United States, that since that order was discussed I have referred to the commission's report in what was known as the Southeastern cases, in which were considered the rights of the carriers to depart from the fourth section in competition with the Mississippi and other rivers, and I find that, while the decision of the Supreme Court was rendered in June, 1914, the Southeastern cases had been decided in April, 1914, and had been under consideration a year or more before that time. So it is not correct that the commission suspended consideration of all fourth-section applications during that time. The fact is that while it has been charged that the Interstate Commerce Commission has unduly delayed matters during that time the transcontinental matter was before it in one form or another, and various decisions were rendered from time to time, and the intermountain people have admitted that they have been materially benefited by them; and I simply want to mention a number of things that occur to me that indicate that the relationship which was brought about as the result of the amendment to the fourth section in 1910 has been of material advantage to the intermountain cities.

First came the decision in which the 7, 15, and 25 per cent order was established, which had the effect of considerably narrowing the differentials between the intermediate and coast rates. When the schedule C commodities were established, as has been stated, it provided that the rates to intermediate points should not exceed the rates to the coast plus 75 per cent of the locals back, which, again, had the effect of limiting and reducing the rates and narrowing the differentials. Then, on December 30, 1916—last December, the 30th—the schedule C commodity rates to the Pacific coast terminals were advanced 10 per cent on carload business and 25 per cent on less than carload, which, of course, had the effect of narrowing the differentials to just that extent; and it also appears, in looking through the decisions, that at various times advances were made in the coast terminal rates aside from the uniform 10 per cent advance made on schedule C commodities. One reference to that which I wish to make is contained in 32 Interstate Commerce Commission, 568, the opinion being rendered by the commission on January 29, 1915, where the commission states:

Examination of the tariffs, \* \* \* establishing commodities rates to the Pacific coast and intermediate points under the percentages authorized by the commission in the original order, shows that the carload rates to the coast were increased on many commodities. These commodities on which the rates were increased include the following articles: Agricultural implements, hay presses, beehives, and honey section frames, slate blackboards, etc.



These increases in the coast rates, with consequent likelihood of loss in terminal traffic, were doubtless made in order to more nearly preserve under the percentage system the level of the then current rates to intermediate territory.

So, in that instance again the terminal rates were raised on account of the contentions made; and while I am on this I want to read, so it will be in the record, the balance of that paragraph in which the commission considered the question of whether the carriers should be permitted to make lower rates on schedule C commodities than they had maintained before, because of the increased competition brought about by the Panama Canal. The commission said:

The relief afforded from the fourth section should be sufficient in each instance to permit the carriers to continue to compete for the terminal traffic as long as it may be secured at rates that are sufficient to yield a revenue in excess of operating cost. The maximum of public benefit from the fourth section will result from the enforcement of conditions that will tend to preserve and promote, and not to diminish or retard, competition.

Now, that is a point that I have been thinking about as we have been proceeding here. If it were to be assumed that the Government should operate the steamships which are being built through the canal, either during the present time or during normal times, I think it may be assumed that the purpose of the Government would be to charge rates which would be no higher than necessary to pay the expenses of operation and perhaps a reasonable return on the amount of money invested, subject to the same basis that is applied in the case of railroads or private corporations. That being the case, the rates which the Government would charge for transportation through the canal would undoubtedly be as low as the rates which have been made by private steamship companies in the past, whose rates, as they have testified in numerous hearings, have always been, I can say, highly remunerative; and unless that should be done it seems to me it would have the effect of largely destroying the wholesome condition that exists during unrestricted water transportation. If the low-water rates are maintained by the Government, the only fair thing to do, it seems to me, would be to permit the carriers to meet such rates as the Government finds it necessary to make through the canal; and, again, that the best interests of the intermountain country would be served if the carriers are permitted to make these water competitive rates, because, as has been repeatedly said in these hearings, unless that is done they will be obliged to give up the terminal traffic and forego what little they can make on that.

And in this connection I want to present to the committee certain things dealing with the economic principles involved in this question of the long and short haul. Aside from the fact that an expert body like the Interstate Commerce Commission, which is presumed to know what is proper under these circumstances as no other body in the country is, because of the special investigation and consideration which it gives continually to the facts, and the fact that it has repeatedly reiterated that the natural logical condition is one of water competition, and is a rate structure such as has existed in the past, I find that all traffic and legislative authorities that have ever considered this question, whether from an arithmetical competitive or economical standpoint, agree. In England the law provides—I thought I had the exact language—to the effect that the commissioners may when it is necessary permit a carrier to charge more for

a shorter haul than for a longer haul, and Lord Herschell, in the case of *Phipps v. London & Northwestern Railway Co.*, reported in 2 *Queens Bench*, 229, uses this language:

Suppose that to insist on absolutely equal rates would practically exclude one of the two railways from the traffic, it is obvious that those members of the public who are in the neighborhood where they can have the benefit of this competition would be prejudiced by any such proceedings.

And further:

Inasmuch as competition undoubtedly tends to diminution of charge, and the charge of carriage is ultimately one which falls upon the consumer, it is obvious that the public has an interest in the proceedings under this act of Parliament not being so used as to destroy a traffic which can never be secured, but by some such reduction of charge, and the destruction of which would be prejudicial to the public by tending to increase prices.

Now, we have stated, and I think we may fairly state, that the maintenance of the condition which exists at the present time throughout the United States is in the interest of the public generally, and I believe in the interest of the contending sections—it is certainly a condition which should continue to exist if the carriers are to be given an opportunity to compete on the same basis that other carriers are, and to do what private enterprise is generally permitted to do, and that is to meet the natural conditions which exist in such a manner as to result to their great financial benefit and to the highest efficiency without doing any harm or any injury to any one concerned. The carriers of this country are being regulated by an expert body, and it has seemed to me, as I have listened to the witnesses of the intermountain cities, that the burden of their complaint is—and I wish to recall that a number of them have admitted that in their opinion during normal times a situation which permits the carriers to make lower rates to meet competition is proper; Mr. Jones, of Arizona, stated that as his opinion, and others have stated that: in a hearing last December in Spokane two business men on the stand in that city stated they would have no objection during normal times to the carriers being permitted to make rates to meet water competition, realizing that it is to their interest that they should be permitted to do so—but it has appeared to me that the burden of the complaint of the intermountain cities, or representatives present here, is not that there may not be conditions where it is proper not to apply the absolute long-and-short-haul clause; not that in the transcontinental situation it may not be proper, but that the Interstate Commerce Commission, though it has this matter to deal with, has not done with regard to these gentlemen as they wanted it to do, and therefore rather than to continue under a condition under which they can not get all they want, we should practically abolish the powers of the commission with regard to this matter and absolutely insure that in the future there will be nobody that can say, no matter what the exigencies are, that the carriers shall be permitted to depart from an absolute long-and-short-haul clause, and thereby they want to accomplish what they believe they are entitled to, but which the Interstate Commerce Commission and what Congress so far, and what every expert that has given serious consideration to this question believes is not the proper thing.

As to the Interstate Commerce Commission, no one will say that it has not acted in regard to this matter as fairly as it has with

regard to any other matter, and in my opinion it would be a rebuke to the Interstate Commerce Commission if an absolute long-and-short-haul clause were established on the ground on which it is sought by the intermountain cities, which is, in effect, that "while we admit the principle under certain circumstances, the Interstate Commerce Commission has not done for us what we have insisted upon, and therefore we want you to take all power away from it in this respect and make it absolute, so that there will be no question but that in the future we will have all and more than we really think would be the best thing for us under all circumstances."

Now, Mr. Wyman, who is an eminent authority on public service corporations in this connection, under the head of Economic Principles Affecting Rate Making—in dealing with what he calls and what is generally known as the law of decreasing costs—says this:

Economists in dealing with the problem of rate making in public service have been prone to consider chiefly what policies it should behoove the managers of a business to follow in order to get their due returns from it most advantageously. It has been pointed out, for example, in all discussions of the railroad problem by economists that the fixed expenses which constitute so considerable a proportion of the disbursements by a railroad are to a very large extent independent of the amount of traffic carried. It follows that additional business will always be done at a decreasing relative cost. The net income rises as the business expands, and the law of increasing returns is again demonstrated.

If the carriers can make anything on a low rate maintained to the terminal, then certainly the much higher rate that is made to the intermediate point must be much more than a reasonable rate, but it has been contended and there seems to be some question here, as to whether some of the rates which the railroads have made have been actually remunerative. The best answer to that question, it seems to me, would be to ask why should the carriers make any rates that are not remunerative or any rates in fact that do not net them a reasonable return, unless they are forced to do so by circumstances over which they have no control. I think it is safe to say that the carriers do not construct rates on that basis. This thing must be borne in mind in this connection—that is what I referred to in the quotation which I gave a moment ago—that it has been shown by various authorities the fixed expenses of operating the railroads in this country are considerably more or are something over half of their total expenses. Now, after the fixed expenses which a carrier has is paid—the railroads are here and they have these expenses—you get to the place where the carriers can haul additional traffic with very little additional fixed expense, and I think there is no doubt at all—

MR. SIMS. Do you regard operating expenses as fixed expenses?

MR. WETRICK. I think so.

MR. SIMS. It is not uniform, is it—wages may go up or down, or the cost of material may go up or down?

MR. WETRICK. Yes, sir; but the total cost of transporting freight, after the fixed charges are paid, is relatively very small, so that you get to a place where I think there is no question but that a railroad can carry additional traffic at a lower additional cost than the steamships can absolutely transport it between the two coasts and still make something on it, which they would have to yield to the steamship companies if they were not permitted to do so.



Now, then, with regard to competition as a factor, Mr. Wyman has this to say:

Much of the disproportion between individual rates existing is explained by the presence or absence of competition. Indeed, this competition is put forward as a justification for making disproportionate rates, upon the ground that the increased business obtained by cutting rates to meet competition reacts favorably upon the whole business by decreasing costs. And it must be admitted that this law of increasing returns may be considered in making rates. If traffic may be acquired by a specially low rate which would otherwise be lost to acquire the traffic would benefit rather than burden other traffic of a different kind since if under the law of increasing returns it is remunerative, the profit thus earned will tend to diminish the rates charged on the remaining traffic. On this ground the competition may be considered as a factor in fixing rates. If a carrier is carrying goods from two stations, at one of which there is competition, the rate at the station where the competition exists may fairly be reduced so far as is absolutely necessary to secure the traffic, provided the reduced rate remains a remunerative one under the law of increasing returns. If the rate were not reduced, *ex hypothesi*, the traffic would be lost, and the profit realized upon it must be exacted from the noncompetitive traffic; if on the other hand the rates were reduced equally all over the road, the carrier could not earn a fair return from his whole schedule, since we are assuming that the necessary competitive rate is so low as to be profitable only as a result of the law of increasing return.

With regard to legal justification of lower long-haul rates, Beal & Wyman, in their work on Railroad Rate Regulation, have this to say:

As a matter of reasonableness, the charge has still to be justified at common law, but this may be done in some cases. If competition is met at one point and not at another a competitive rate is established at the former point. A railroad whose line runs through the noncompetitive to the competitive point must at the latter point either meet the competitive rate or lose all business. It must, of course, give up the business rather than carry at a loss and throw upon the remaining traffic the burden of supporting the road and also of making up the loss. But the competitive rate is ordinarily slightly remunerative; it yields a net income, though less than is necessary to pay its proportion of the fixed charges. If the business is given up all the first charges must be paid by the traffic at the noncompetitive points; if the competitive rate is met and business obtained the profit from the business will go to reduce the amount of fixed charges to be paid by the noncompetitive traffic. As the competitive traffic will not pay its share of the fixed charges the noncompetitive traffic, having more than its share of the fixed charges to bear, will necessarily pay a rate higher than the competitive rate in proportion to the distance, and it may well be obliged to pay absolutely a higher rate than the competitive rate for a longer haul. Nevertheless, the rate will be lower than it would be if the railroad did not meet the competitive rate and obtain its share of the business; and therefore, being the lowest rate which the carrier can charge and obtain fair compensation, it is reasonable at common law.

Mr. Noyes, in his book on American Railroad Rates, citing Mr. Acworth, whom I know the chairman recalls as a high authority on railroad transportation matters—

Mr. ESCH. He has already appeared before this committee.

Mr. WETRICK. May I ask whether or not he discussed the long-and-short-haul principle?

Mr. ESCH. He did not.

Mr. WETRICK. Mr. Noyes, in discussing this question, sets out a formula which Mr. Acworth himself used in one of his works upon the subject for the purpose of illustrating what he (Mr. Noyes) is saying, to the effect that the additional business will always be done at a decreasing relative cost, but the net income rises as the business expands, thereby demonstrating the law of increasing returns.

This may be shown in a simple formula if it be assumed only one-half of the expenditure of a railroad varies with the traffic: "If it costs  $X$  to deal with 1,000,000 units of traffic, 5,000,000 units will cost not  $5 X$ , but  $\frac{1}{2} X$  ( $\frac{1}{2} X \times 5$ ) equals  $3 X$ ."

The cost of hauling business, if it costs a certain amount to haul a million units of traffic, to haul 5,000,000 units of traffic, assuming the rate of transportation is fixed, is not five times as great, but three times as great, demonstrating, as I said before, that there is no doubt as to the correctness of the theory which has been advanced. When you take into consideration the empty-car movement, etc., and the normal condition is when the railroads have a sufficient number of cars to haul traffic—

Senator CUMMINS. That was the former argument used to justify or defend discrimination as between individuals in the same locality, was it not?

Mr. WETRICK. No; I do not think so, Senator.

Senator CUMMINS. Here is a railroad running into a town; the rate is so much. One individual says, "I will not give you my business unless you do it at a less rate," and the railroad company under these fixed charges says to itself, "I can not get the business without giving a lower rate, and therefore I will take the business at a lower rate."

Aside from the question of discrimination, it is the same argument, is it not, exactly?

Mr. WETRICK. I do not think it is. By doing that discrimination was brought about between individuals. In fact, it resulted in giving one person a rebate. What I am considering is what is the best thing for the carrier to do under all circumstances.

Senator CUMMINS. That would be the best thing for a carrier: if it could not get the business without giving the lower rate and the fixed charges remain the same, why would it not be better for the carrier to give the service to the individual at a lower rate if that is necessary to get the business? In the one case it is a discrimination as between localities and the other between individuals.

Mr. WETRICK. Let us carry the illustration to its ultimate conclusion. I want to give a very good illustration of it later on. Suppose that for the carrier to forego this man's business who wanted the lower rate means that the other man will be deprived of transportation because the railroad can not operate on that other man's business alone, then you would have a situation such as exists here. Then if the carriers should go to the other man and say, "Here, our regular rate on this stuff is so much and we have to charge you that rate on your goods unless we can get some other freight, but over here is another man across the street who offers us so much freight at so much money and we can make money on it. Will you permit us to do it? If you will permit us to do it, we can haul your stuff at so much less."

Now, the law prohibits that situation, and in a community the people are so close that the situation does not exist, but, carrying your illustration to the ultimate conclusion that the transcontinental rate situation can be—

Senator CUMMINS. I am not saying that the parallel between individuals and localities is complete, but I am saying that the argument you develop here is the argument that was constantly used in the

old days to defend discriminations as between individuals and localities. I have heard it a great many times.

Mr. WETRICK. If this discrimination, because of what I am going to say, is not unlawful and undue and actually affects the man who pays the higher rate, why should it not be done? Suppose the people of Seattle should say to the people of Spokane, "We are going to have a leveling of rates"—

Senator CUMMINS. I will answer that—that the only answer ever made is that these two individuals out in a community have a right to do business on even terms and receive their rates on the same basis in order to enable them to compete successfully.

Mr. WETRICK. That is one phase, and if we have in mind only the rights of the jobbers in the two territories and give effect to their rights only, then it would perhaps be best for the contending factions to say that if we are to disregard the legal principles involved.

The VICE CHAIRMAN. I once had an analogy of the principle mentioned by the gentleman, and I must say that I could not see it. I contracted with a lady in Washington for room and board at \$45 a month each for myself and wife and three children. She had five vacant places when I went there and she filled up the other places one by one with clerks at \$20 a month. She said she had the vacant places and that she might as well fill them with clerks at \$20 a month, but I could not help but feel that I was paying the board for those five fellows.

Mr. WETRICK. Suppose there are conditions existing which compelled that, as there is in this controversy or situation, then what are we inclined to do about it?

The VICE CHAIRMAN. I do not know that it is necessary for me to say that there are conditions compelling that.

Mr. WETRICK. Suppose it can be demonstrated that the actual conditions are such that it is the best for all concerned who were boarding at that house and that it is the best thing for all concerned in the United States in this particular instance?

The VICE CHAIRMAN. I do not know. It may have been the best thing for me to help pay the board for the other five people. I did it anyway.

Mr. WETRICK. Suppose the landlady had said to you: "I can get these additional boarders only at the rate of \$3 per week. Now, I can not reduce you all to that basis, but where I have been charging you \$15 a week, I can reduce yours to \$4 if you will not object to my taking these others at \$3." Then it would have been to your advantage to accept the proposition.

The VICE CHAIRMAN. She did me like the railroads do the intermountain people. She did not consult me about it.

Mr. WETRICK. Suppose we consult the intermountain fellows and say to Spokane that after the water competition returns to the coast—suppose the railroads say to the people of Spokane: "Now, water competition is taking a million tons a year away from us at Seattle, or at Puget Sound cities; now, we are carrying none of that traffic, and therefore we are losing whatever we can make on it," and the railroads say to the people of Spokane, "Now, then, if you will cease your objection to our making a low enough rate to carry some of that traffic to Seattle, we will make a low rate and engage in that traffic and



make what we can on it, and we can continue to serve you, but if you do not permit us to do that, we can not operate and make a reasonable return on our property, and we will be forced to raise your rate. Now, what do you want us to do?" Suppose that is the situation; is there any question what Spokane would say?

The VICE CHAIRMAN. If the landlady did not make anything on the boarding business, what would she lose by giving it up entirely? What is the use of fooling with it?

Mr. WETRICK. I have assumed all the time, Mr. Adamson, that they do make some profit on the terminal business.

The VICE CHAIRMAN. Oh, they simply comply with the rule of the courts by saying it does pay the out-of-pocket cost and something.

Mr. WETRICK. And more than that, what reason would there be for the carriers to engage in it if there was not something in it?

The VICE CHAIRMAN. If it pays more than cost, how much more than cost do the intermountain rates pay? Do they not pay an abnormal profit?

Mr. WETRICK. The question of determining exactly what profit is made is, of course, a difficult question, and the law of decreasing cost, as I say, comes in there. The cost of carrying some of this additional traffic, after you have the expenses paid, is very small, so we need not be surprised if we find some disparity in the rates that may be charged where there is no competitive situation, and in the case of one where there is.

Now, for instance, there has been mentioned to this committee the proportion the railroads charge on import and export business, which appears to be very low. Now, of course, it is safe to say that the carriers are not carrying that for the fun of it or that they are doing it for a loss, but it may be possible to carry that at a slight profit only, because they could do that without any appreciable cost and make something on it.

The CHAIRMAN. We will take a recess at this time until 2.30 o'clock.

(Whereupon, at 12.45 o'clock p. m., a recess was taken until 2.30 o'clock p. m. of the same day.)

#### AFTER RECESS.

The hearing was resumed at 2.30 o'clock p. m., pursuant to the taking of noon recess.

The VICE CHAIRMAN. The committee will come to order.

#### STATEMENT OF S. J. WETRICK—Resumed.

Mr. WETRICK. Before adjournment I referred to the views of Judge Noyes on this question, and then, because we were led to a discussion of Mr. Acworth's ideas in this connection, I did not quote it. I want to quote it now. This appears in his work on American Railroad Rates, at page 112:

A statute absolutely denying to a railroad the right to charge less for the longer haul, while seeming just at first glance, would contravene those elementary principles which we have considered. Charges could no longer be based upon the value of the service. A railroad must take business from competitive points at competitive rates, and if it can not charge intermediate traffic proportionately more it must often go into bankruptcy. And if it must subsist upon

the local traffic alone the same result is likely to follow. Instead of the railroads losing money on long hauls and making it up on the short, whatever is received from through traffic above the additional expense of earning it is extra and goes that far toward maintaining the railroad. Inequalities in charges in favor of the long haul manifestly constitute discriminations between localities, but they are not unjust unless the differences in charges fail to correspond to differences in conditions.

And, as I said this morning, Mr. Noyes states, in connection with his discussion of decreasing costs, "The constant expense of a railroad is more than half of the total expenditure."

Now, I just want to gather together a few things to——

Mr. SIMS. You say that Mr. Noyes considered that the fixed expense is somewhat more than half?

Mr. WETRICK. Yes, sir.

Mr. SIMS. Does that include interest on bonded indebtedness?

Mr. WETRICK. I did not look into the details of it, but what under the rules of the Interstate Commerce Commission is generally regarded as fixed charge is figured in that. I think he figured 57 per cent as being the constant or fixed expenses. I was about to say that some of the additional things that I have to present will be by way of filling in, without making any attempt to cover something that has been already covered.

There has been a great deal of discussion here as to the actual force of water competition during normal times. I had not thought before coming here that anybody would have any doubt about that, because it has been established again and again, and in addition to what has already been shown I want to refer to the decision of the Interstate Commerce Commission on the schedule C question, rendered June 29, 1915 (32 I. C. C., 611), at page 616, where the commission shows that of the commodities shown in schedule C—now, the committee will please bear in mind that schedule comprises some 100 or more different items of which the carriers asked the commission to give them further relief than given them in the percentage order of 1911; that is, while that was pending on appeal before the Supreme Court, and before the percentage order was to be applied, the canal was opened up and the carriers then said to the commission, "The conditions have changed and we will lose all the traffic on certain of these commodities, which are strongly competitive, unless you give us further relief than that authorized in 1911." Those items were grouped in what is known as schedule C, and the commission is here considering whether to give the carriers further relief than that contained already in the percentage order, and the commission says:

Of the commodities shown in Schedule C, 961,768 tons moved from trans-continental territories A and B to the Pacific coast during the calendar year 1913. Of this, 422,359 tons, or approximately 44 per cent, moved by water, and 539,409 tons, or 56 per cent, by rail.

So it has been stated that the railroads have set the pace in this water competitive struggle; that they have forced down the water rates. I deny that absolutely, and the Interstate Commerce Commission has always denied it and has always found to the contrary.

Mr. SIMS. That 539,000 tons from coast to coast, you say, does not include anything but coast-to-coast shipments by rail?

Mr. WETRICK. From group A and B to the Pacific coast, the amount of schedule C tonnage.

Mr. SIMS. Tonnage that did not go to the coast and stop, but went to these places back two or three or four hundred miles, is not included in there?

Mr. WETRICK. No, sir; that only includes points of origin in groups A and B; that is, points as far back as Pittsburgh, to the Pacific coast. That much moved to the Pacific coast. That is what the carriers showed the commission—that in 1913, before the canal opened, they only got 56 per cent, and so they said to the commission, “Now, with the canal open, and with the steamers making a rate on structural iron and steel, and corresponding rates on other commodities, we only got such a percentage of it in 1913, when the Tehuantepec route was in force,” and the evidence shows how the traffic was moved following the opening of the canal.

I was saying a moment ago that there has been a contention that the railroads have set the pace. We all know who have had anything to do with these things that since 1910 water competition up to the time of the closing of the canal and the European war became acuter from day to day, and that the carriers had one constant struggle to keep their rates down to a basis where they could keep some of this traffic for their lines, instead of it all moving by the boats, and it has been demonstrated time and again that the water lines were setting the pace in the rate making, and not the railroad lines.

The commission says further here:

The record does not show the total tonnage moving from all territories to the Pacific coast for that year. It was shown in the former hearings that in 1906 the total tonnage moving from all territories by rail to the Pacific coast was approximately 3,500,000 tons. The 961,000 tons of schedule C commodities moving from territory along or contiguous to the Atlantic seaboard constitutes a large percentage of the business to the Pacific coast.

The same opinion states that since the opening of the Panama Canal the water carriers have materially reduced their rates, shortened the time of transportation, increased the frequency of sailings, added to their tonnage capacity, and greatly added to the tonnage secured of this coast-to-coast freight.

I would not cite these things ordinarily, because I do not think that they are questions that are properly before this committee, because this committee, so far as the long-and-short-haul question is concerned, is concerned with a question of principle and the question of individual rates and the details of rate making; the facts as to whether there is competition justifying a departure from the long-and-short-haul clause have, under our theory of government, been matters left to the discretion of the Interstate Commerce Commission, and if we are to indulge any presumption in favor of an administrative body of this Government we may well assume, I think, that the opinion and findings of an unbiased expert investigating body upon these questions, if not to be accepted as conclusive, may at least be regarded as having more probative value than that of statements of the contending parties on the record that we are making here, unless it be assumed that the Interstate Commerce Commission, for some reason or other, has been taking the one-sided view of this question that our intermountain friends seemingly want this committee to believe they have to such an extent that we must take this power away from them as dangerous. It seems to me that is the only conclusion



we can come to. This same record shows that there was in the service through the canal, between the Atlantic and Pacific coasts, 49 steamships, of which the American-Hawaiian Line itself had some 26 or 27, with regular sailings and with a capacity of over 380,000 tons.

Mr. SIMS. Per annum tonnage?

Mr. WETRICK. Yes, sir; I take it to be.

Mr. ESCH. That is the tonnage capacity of the ships and not the carrying capacity. You said "per annum." You do not mean that.

Mr. WETRICK. No; not per annum; that was the tonnage capacity of the ships. As we have seen in 1913, over the Tehuantepec route, they carried over 500,000 tons of schedule C freight.

Mr. SIMS. Was that net capacity?

Mr. WETRICK. I take it to be the tonnage capacity.

Mr. SIMS. That does not mean what would be the equivalent of railroad tonnage? We do not know what this means unless we know the tonnage actually carried.

Senator CUMMINS. That means in one trip those ships could carry that much.

Mr. SIMS. We do not know how much they did carry.

Mr. WETRICK. I have culled some figures. The commission said that the tonnage moving by water to the Pacific coast and Hawaiian Islands for the year 1911 was 397,974 tons; in 1912, 451,582 tons; and in 1913, 434,115 tons.

Now, that figure there is only slightly higher than the tonnage I quoted a while ago from schedule C commodities, from which it would appear that the Hawaiian tonnage was comparatively a very small part of it. The commission says further:

\* \* \* while for the month of September, the first full month after the opening of the Panama Canal, the tonnage from the Atlantic coast to the American Pacific coast ports was 77,915 tons. While the movement by the Panama route for a month may not be a reliable index as to what may be expected as the result of a year's operation, it is indicative of a greatly increased activity on the part of the water carriers. The testimony shows also a reaching out by these water carriers to territory from which heretofore they have drawn but little if any traffic, and the movement by water of various commodities that heretofore have moved almost exclusively by rail.

As indicating the territory from which this competitive traffic is drawn, I will quote this:

Prominent instances of these are the following: A shipment of 32 cars of cast-iron pipe from Birmingham, Ala., by rail to New Orleans, thence by water to the Pacific coast; a shipment of paper bags from Sandy Hill, N. Y., via New York and ocean; shipments of catsup from Rochester, N. Y., via New York and ocean; 140 cars of structural iron originating in various parts of Pennsylvania; 50 cars of wire fencing from various points in Pennsylvania; 1,200 tons of rails from Lorain, Ohio; 653 pieces of wrought-iron pipe from Wheeling, W. Va.; from 10,000 to 15,000 tons of wrought-iron pipe from Youngstown, Ohio.

When we had the hearing in Spokane last September as to what the commission should do on the transcontinental rates during the present temporary times, Mr. Fitzpatrick, of the Union Iron Works, testified that after the Panama Canal opened up the rate on structural iron and steel which the steamships made from New York to Seattle was so low that he started to ship from Pittsburgh east, thence by water to Seattle, and thence to Spokane. That is only an illustration of what will happen all the time, and I said to Mr. Fitzpatrick, after asking him whether he did not move his iron and steel that way,

"Mr. Fitzpatrick, why did you do that?" He said, "Because I was paying 16.9 cents from Pittsburgh to New York, a rate of 30 cents from New York to Seattle, making 46.9 cents, and I was paying 30 cents from Seattle to Spokane, giving me a rate of 76.9 cents, which was considerably less than the direct rail rate." That was before the rates the carriers asked to be established were established, and shows the need of the carriers to reduce rates in that respect. I said to Mr. Fitzpatrick, after he said that the reason he shipped that way was that he was getting a more reasonable rate, "Do you think it would be an injustice to the carriers if, when they see you are moving your stuff by water which you formerly brought out by rail, they should be allowed to reduce the rate to Spokane to meet the rate you are shipping on now?" He admitted there was no injustice about that, and when men all understand that the only difference between that situation and the one at Seattle is that at Seattle the absolute water rate must be met, while at Spokane the water rate, plus what it costs to move it from there to Spokane, must be met. In this connection, when it is stated that the Panama Canal was built by all the people of this country, and all ought to have the benefit of it, I say they are all getting the benefit of it. If the natural conditions which exist on the coast force the railroads to make a 75-cent rate at Seattle, when they are maintaining a dollar rate at Spokane, before we had the canal, and then after the canal was opened the rate to Seattle is forced down 10 cents, or to 65 cents, as it was on many commodities, the Spokane rate being—if it was, and they contend that that was the situation with many of these rates—the rate from Seattle plus the local in, when you reduce the Seattle rate 10 cents, you reduce the Spokane rate 10 cents by the same operation, and Spokane has received just as much benefit: Spokane is a point that comes within the water influence. Spokane receives just as much benefit from the opening of the canal as a point located on the coast.

I have thought sometimes, when we speak of the benefits of the canal in that connection, that perhaps after all the primary purpose of the canal was for defensive military purposes. Assuming it was for commercial purposes, as far as the question which we are here considering is concerned, the benefit to be derived from the Panama Canal is the influence which it exerts upon the rail rates; I mean so far as the measure of rates we are considering is concerned. If the rate at Seattle is reduced from 75 to 65 cents, and the rate at Spokane is higher than the Seattle rate by the local back, then the rate at Spokane will be reduced the same amount. If you now say that the Spokane rate should be reduced more than those natural conditions compel, then, in my opinion, you are giving Spokane more benefit from the opening of the canal than you are giving to Seattle, and you are doing it at the expense of the rail lines.

MR. SIMS. Suppose they do not reduce their inland rail haul from Seattle to Spokane; that is, to the extent they have reduced it to Seattle?

MR. WETRICK. If they do not, Mr. Sims, here is what happens—exactly what happened to the Union Iron Works: The stuff will move by water and the rail lines will lose it.

MR. SIMS. You mean a shipment is likely to come through from the Atlantic coast to the Pacific coast by water—

Mr. WETRICK. It would move from Pittsburgh to the Pacific coast through the canal to the port and then in. The rail carriers, of course, would get the haul from Seattle to Spokane. If the difference between the rates between Spokane and Seattle is the natural one, which is measured by the rates from the coast to Spokane, then, as far as water influence is concerned, it would force the same reduction at Spokane as would be forced at Seattle.

Now, we have said that Spokane—and, mind you, we are not trying to keep up Spokane's rate; I deny any charge here that we have anything against the interior cities or any desire to keep up their rates, or do anything about them, or that we are concerned about them at all—our thought is with our terminal rates, in which respect we merely insist that you do not by an artificial law take away from us those things which induce industry and manufacturing concerns, and almost any other kind of business, to locate upon the water, where there are various means of transportation, and where you have the low rates that water affords. That gets me back to the question I was on this morning.

Instead of our trying to keep up Spokane's rates, the fact is Spokane is trying to force up our rates. They are trying to deprive us of low rail rates, which, if the natural forces are permitted to operate, will be brought about at Seattle. So, instead of our trying to keep up the rates, as I said this morning, Spokane, being located where she has not the advantages of low water rates, tries to equalize with Seattle by asking you to prevent the rail carriers from meeting the water rates at Seattle.

Now, if that is done we will be deprived, as the Interstate Commerce Commission has said, of an additional competitive service of access to different competitive markets of supply and the other advantages which are very important, which inhere in maintaining wholesome competition between rail and water lines and which you can not have if you restrict the one and tie it down and let the other go as it pleases. If you force the rail rate up to remain at the level of the higher intermediate rate, then you destroy the effect of the transcontinental lines, as regulators of water rates, in a sense, and I mean in this way: Quite likely the water rates, if the steamship companies would get together under some agreement, might be kept up higher than they are at the present time. It seems to be the opinion of some persons at this hearing that we ought to keep the steamship rates up; particularly if the Government operated the steamships, so that it would not be necessary for the carriers to depress their rates so much, but I do not think that is a condition that we want to bring about.

Now, as I say, if we are deprived of these water competitive rail rates, we will lose these advantages we have, but do not forget this: That we still have the ocean, and unless, through combinations between the steamships, they keep their rates up higher than competition has forced them in the past, and just a little under the rail rates that the rail carriers would be forced to meet, we still have the low water rates on which we can move our goods.

Senator CUMMINS. I want a little information on that point now, because I may forget it later on. Did the freight which moved from Pittsburgh to New York and thence through the Panama Canal to



the Pacific coast move from western Pennsylvania to New York upon the established rate for local business?

Mr. WETRICK. Yes, sir; 16.9 cents at that time.

Senator CUMMINS. There was no lower rail rate from western Pennsylvania to New York upon that traffic than upon the ordinary traffic moving from one locality to another? I ask it purely for information.

Mr. WETRICK. I do not know just what you mean by that.

Senator CUMMINS. Did this structural iron and steel which moved from Pittsburgh to New York for transportation through the canal move from Pittsburgh to New York on a lower rate than would have obtained had the shipment been from Pittsburgh to New York and have stopped there?

Mr. WETRICK. No; you can easily see it would have been against the interest of the carriers to have made a lower rate.

Senator CUMMINS. I am asking for information.

Mr. WETRICK. It was the local rate, regardless of where it was going.

The VICE CHAIRMAN. There was no through rate involved?

Mr. WETRICK. No, sir; it was not a proportional rate.

The VICE CHAIRMAN. The land rate was not absorbed by the steamship company?

Mr. WETRICK. No, sir; the fact was the combination of those rates made a considerably lower rate at Spokane. The rate at Spokane at that time was \$1.08 on structural steel, and many of the rates at Spokane and intermediate points have been passed on by the commission and found to be reasonable rates, and the rail rate to Seattle at the time was 80 or 84 cents. I have forgotten what it was, but it was one or the other. The carriers were permitted by the commission to make a 65-cent rate from Pittsburgh to Seattle, whereupon the Spokane rate was reduced to 87 or 85 cents, showing by that, on that commodity, that the Spokane rate was reduced by water competition, and reduced more than the reduction in the case of the Seattle rate. Spokane has received on innumerable occasions the benefit of water competition because it is in the zone of competition, and there are rates to Seattle to-day higher than the rates to Spokane.

The VICE CHAIRMAN. You do not object to reducing the rate at Spokane to bring about a relative basis, just so they do not raise the Seattle rate?

Mr. WETRICK. Yes, sir; I do not want this committee to get any idea that we are so narrow minded or so selfish at Seattle or on the Pacific coast terminals, that we are trying to keep up rates at intermediate cities in order that the jobbers may have preferential rates.

The VICE CHAIRMAN. Spokane is not objecting to having its rates raised higher?

Mr. WETRICK. I do not know that they are.

The VICE CHAIRMAN. That shows they are unselfish too.

Mr. WETRICK. Well, we are located in the same State, and our only purpose is to maintain the transportation facilities of this country in the highest state of efficiency, and that we shall recognize the natural laws and forces which the carriers must meet, and let them meet them in a way that will result in their highest efficiency, that, gentlemen, and the fact it will give us a further and additional competitive service, that we should not be deprived of, if to deprive us

of it will not do anybody any good, unless it be the jobber at the intermediate points, and I say to you that the people on the Pacific coast and the Pacific coast cities will be better off—the producer and consumer who pay the freight and bear the burden—they will be better off if we continue to permit these carriers to submit and bow to the force of water competition that exists here, and what I am trying to do is to lead you to see that you should not deprive us of that advantage which the people of this country have and enjoy, and it is more essential and more important that that condition should continue to exist than it is whether the goods are distributed by the Spokane jobber or distributed by the Seattle jobber.

I said a moment ago we are facing now an enormous advance in the rates to the Pacific coast terminals. That means that the people on the Pacific slope will have to pay millions of dollars—I am not exaggerating—in the next few years, until normal conditions come back, in revenue to the carriers. The present conditions that exist are only temporary, and the rates which are now in existence have been shown to be necessary in normal times to meet the water competition. Notwithstanding that, we are to pay all these additional freight charges, not because the farmer or producer in the intermountain territory is objecting or has objected, because he still pays as high rates as before, and some of his rates are being raised—why? Because the Spokane jobber insists that our rates shall come up to the level of his rates and that you shall do away with this natural force of water competition. That is the reason. Whom are we going to serve, or who will be best served—the man who, in any event, passes the freight charges on to the people who buy the goods, or the producer, or the ultimate consumer, who pays the freight?

We are not prorailroad because we are presenting the thing as we are presenting it. I said this morning I am willing to take an independent stand on this proposition. We can not force the carriers to meet the water competition, but, knowing the natural forces that exist, we know that they must meet it if they are going to do what is the best thing for them, if you will but permit them to do it. So, I say, do not deprive us of the natural advantages which we have because we are located at a place where we have these low water rates, and where the carriers, if they want to compete, must make rates which are fairly close to the rates established by the water carriers.

MR. SIMS. At present there is no water competition?

MR. WETRICK. At present there is no water competition to speak of.

THE VICE CHAIRMAN. In normal conditions you have water transportation, and then, if the railroad charges you a higher rate, you have the hope possibly of sending your stuff by water; at any rate, you are independent about your transportation. Now, the Government has taken away your water transportation by commandeering all the vessels for war purposes. It seems to me now you need the low railroad rates more than you did when you had low water transportation. Your argument being you have been deprived of this low water transportation, you should have low rates to compensate you for that deprivation.

MR. WETRICK. That illustrates what I think is wrong about depriving us of them. I said the carriers have taken the position that they would prefer, on account of the uncertain duration of present

conditions and because of the fact in the long run it has been that way and must be that way, to maintain this condition. As you say, Mr. Adamson, notwithstanding all those considerations, we are now at a time where we have not this water transportation and low rates which it affords, and to be compelled to pay higher nonwater compelled rates, notwithstanding the carriers wanted to maintain them, is something that—

The VICE CHAIRMAN. The fact is that under the war conditions the Government itself has deprived you of your yardstick by which you measure your rates—your facilities for water transportation—and it seems to me it furnishes a better argument than your other argument why you should have cheap transportation.

Mr. WETRICK. You have been asked to pass this law—why? Not because you are saving any freight for the people of this Government, but because the interior has made this issue and is willing to stand for some advance in their own rates so long as the carriers will adjust our rates to whatever is established at the intermediate points. I leave it to this committee as to who is benefited under the circumstances. The carriers are, of course, because it means additional revenue to them; and the interior jobber is, as Commissioner Harlan pointed out, because temporarily, notwithstanding they are placed in a more advantageous position to compete, but it is only for a temporary period, whether we have the long-and-short-haul clause or not.

Mr. SIMS. Why does not the railroad carrier take advantage of a normal rate to the coast now, when water competition which forces it down does not exist?

Mr. WETRICK. I can only state what they disclosed to be their position in these different hearings which we have had since April, 1916, and I have no reason to question that. There may have been other reasons, but one of them was that the test had demonstrated that the rates now in effect to the Pacific terminals were necessary during normal times to meet water competition; that they wanted to maintain them and should be permitted to maintain them, because it would not otherwise disrupt the whole situation; and for that further and more important reason for them, I presume, that it would enable them to keep in an attitude of preparedness for continuing water competition which will no doubt come back very rapidly and very quickly when the water competition returns.

Mr. SIMS. They are seeking to raise their rates all over the country because of this temporary condition.

Mr. WETRICK. It has been stated that where they raise their rates, when the water competition comes back, in order to lower their rates they must go to the Interstate Commerce Commission under the present law and make an application for permission to establish the lower rates, and by the time the commission has passed upon that—without charging it with any unnecessary delay—if all parties are to be heard, it will be six months or a year before any action is obtained. They figure in that time they would lose more—because of the traffic which will move by water—than they would gain by advancing their rates during these abnormal periods, taking into consideration all the other circumstances.

Mr. SIMS. You recall when the Adamson law was declared constitutional the very next day the railroads gave notice of an application



for increased rates, without waiting to see anything about how it would work.

Mr. WETRICK. I attended the hearings at Washington, and there are rumors of similar applications now. It is true these terminal rates will give them considerable additional revenue, but their idea was that the rate structure should be maintained, and later, when the time came, as they needed an increase, they could get it by making the advance general.

Mr. SIMS. They are willing to lose during the period of the war where there is no water competition rather than take a chance of deranging things—

The VICE CHAIRMAN. Judge Sims says they are willing. I would like to know their real feelings. Do the carriers really want to maintain the rates or do they do it under local compulsion?

Mr. WETRICK. What local compulsion could there be? There is nothing that even suggests that.

The VICE CHAIRMAN. Do not all the local Pacific coast cities claim and insist on that?

Mr. WETRICK. If you had more experience in trying to get this rate or that rate, you will find you do not get it that way.

The VICE CHAIRMAN. Do the managers of the carriers really want to have a cheaper rate at the Pacific coast than along through the country?

Mr. WETRICK. They do not want to, but they are forced to.

The VICE CHAIRMAN. I ask if that is not compulsion?

Mr. WETRICK. There is no question about that. Why should the carriers take less than a reasonable rate that will net them a proper return if they are not forced to do it. We know it is contrary to their principles to do that.

The VICE CHAIRMAN. I notice you gentlemen that represent the coast cities and the carriers always make the same argument. I understand why you do it, because you think it is for the good of your coast cities, but I wondered always whether the railroad carriers wanted to do it or not.

Mr. WETRICK. I think the effective answer is that they do it without any compulsion except that of these natural conditions of which I spoke.

The VICE CHAIRMAN. Natural conditions, because somebody can haul it cheaper and if they want to get any of it they must approximate the low rates of the water carriers?

Mr. WETRICK. Yes, sir.

Mr. SIMS. At a time when expenses of operation and the cost of materials to the railroads are so much increased during the war, why are they not willing to take advantage of this temporarily to increase the rates, their competition having been removed?

Mr. WETRICK. For the reasons that I mentioned, Mr. Sims: no other occurs to me at the present time. Of course, it has always been uncertain how long this condition would exist, and I think if this condition of rate making is to exist, then I should say by all means that it should be permitted to continue during this temporary time, and as I pointed out before particularly if the carriers wanted to do so, because as it is, who is going to be benefited by this advance? Only the jobber in the interior and only because he will have a more

favorable rate in dealing with the coast jobber, and it is a question whether the rates should be constructed for him or those who actually bear the burden.

The CHAIRMAN. I will have to state to you that you have occupied your two hours. How soon can you conclude?

Mr. WETRICK. I will conclude very briefly, if that is the case. I did not know I had taken so much time. I will not take up very much time.

Mr. SIMS. I did not know he was limited or I should not have broken in on him.

Mr. WETRICK. I was showing where this originates when we got on the other line of talk.

The CHAIRMAN. Can you conclude within 15 minutes?

Mr. WETRICK. Yes, sir; I will do that. I read the number of tons and the places of origin of this freight. I was speaking upon the question of whether the steamship lines or rail lines set the pace, and the commission, after considering these things, said:

It is evident from the whole record that whatever may have been the degree of competition in the past between the rail carriers and the water carriers as to the rates on these articles, concerning which additional relief is now sought, we are witnessing the beginning of a new era in transportation between the Atlantic and the Pacific coasts. To secure any considerable percentage of this coast-to-coast-traffic rates on many commodities must be established by the rail lines materially lower than those now existing.

So it granted them this additional relief. I was going to quote additional instances where things had originated away in the interior, but, as I say, I do not think this committee is concerned with anything of that kind. There is mentioned here in the decision of 1911 shipments from Buffalo to Pittsburgh, from Detroit and Chicago, and that famous shipment of starch from Cedar Rapids, Iowa, and in other cases the commission had before it evidence showing that the goods actually moved from Duluth to points in the interior.

I have no particular contention to make about that, except to mention the facts here as long as considerable has been said upon that point. I want the record to show one quotation of the Interstate Commerce Commission from its decision of February, 1909, in the Spokane case, reported in 15 I. C. C., 376, and this is on page 419:

The complainants urge that the defendants, by charging a lower rate to Seattle from eastern destinations than is applied at Spokane, the intermediate point, discriminate against that locality and that the commission should order a removal of that discrimination. We have expressed the opinion that this contention is not well taken; that Seattle by virtue of its location upon the ocean can command a better rate from eastern territory than Spokane, situated 400 miles inland; that the carriers may meet the situation at Seattle by making a lower rate than is accorded Spokane. This is a disadvantage of location under which the city of Spokane rests and of which it can not justly complain. Spokane is entitled to ask of these defendants not of necessity the same rate as Seattle, but a rate which is, under all the circumstances, just and reasonable, and our duty in the premises is to establish such just and reasonable rate.

Now, bear in mind that we are not contesting the amount of the rate which the interior shall pay, but are simply saying do not deprive us of the advantage which inheres in a condition where the carriers may meet the water rate at the coast cities.

In the decision in which the commission ordered the carriers to equalize the rates, the commission says this: After referring to the

fact that some of the steamship companies had been present at the hearings that were held, and the steamship lines were there to help force up the transcontinental rail rates in order that the coast-to-coast business which they had deserted when we most needed them might the sooner become attractive to them again:

The arguments advanced by the representatives of the steamship lines and by some, but by no means all—

By some, but by no means all; note that—

but by no means all of the representatives of the intermediate territory, urge that the policy of the commission hitherto consistently followed of allowing the rail carriers to reduce their rates to water competitive points to a level lower than to intermediate points in order to permit the rail carriers to compete for the traffic with water carriers is against the public interest, because it tends to reduce the profits of the water carriers and the number of ships which would otherwise engage in the traffic. This argument is not new. In *Commodity Rates to Pacific Coast Terminals* (32 I. C. C., 611), we stated—

That was the schedule C decision—

We stated:

"It has been suggested that construction of the Panama Canal by the Government of the United States is indicative of a governmental policy to secure all of this coast-to-coast business for the water lines, and that no adjustment of rates by the rail lines should be permitted which will take away traffic from the ocean carriers which normally might be carried by them. This suggestion, however, loses force under the consideration that the Panama Canal is but one of the agencies of transportation that the Government of the United States has fostered between the Atlantic coast and the Pacific. The Government has from the beginning of railroad construction in the United States encouraged their construction and operation by private capital and enterprise. Some of these transcontinental lines would not have been built had it not been for the liberality the Government extended to them at the time of their construction. As we view it, the Panama Canal is to be one of the agencies of transportation between the East and the West, but not necessarily the sole carrier of the coast-to-coast business. If the railroads are able to make such rates from the Atlantic seaboard to the Pacific coast as will hold to their lines some portion of this traffic with profit to themselves, they should be permitted so to do. The acceptance of this traffic will add something to their net revenues, and to that extent decrease and not increase the burden that must be borne by other traffic. It will also give the shippers at the coast points the benefits of an additional and a competitive service."

This is the decision of June 30, 1917 (46 I. C. C.), commencing at the bottom of page 267, and I was going to say that upon the question of whether the carriers like to meet this water competition I have no doubt that nothing would please them more than if water competition between the two coasts should be eliminated, but it is here.

Again:

The argument advanced by the water lines, if carried to its logical conclusion, means in effect that all traffic which may be hauled by water carriers should be reserved for their exclusive handling. The rail carriers can not maintain under ordinary circumstances a level of rates between the Atlantic and Pacific coasts, between the North Atlantic ports and ports on the South Atlantic or Gulf coast, or between points on the Pacific coast that will be successful in securing any considerable amount of traffic in competition with water carriers without fourth-section relief. We are of opinion that the best interests of the public, of the transcontinental carriers, and of these intermountain cities in particular will be served by a policy that permits the transcontinental carriers to share with the water lines in the traffic to and from the Pacific coast ports. The lower rates to the ports, however, when necessary, must not be lower than the competition of the boats makes necessary and must be high enough to cover, and this by a safe margin, actual out-of-pocket costs of secur-



ing and handling the traffic. The shippers at the coast are thereby given the benefit of competing routes and competing markets of supply. The railroads are enabled to fill up their trains with traffic which, although not highly profitable, yields a revenue materially greater than the out-of-pocket costs of securing and handling the traffic, thereby adding to the net revenues of the carriers, and to that extent lightening the transportation burden borne by other localities.

These transcontinental railroads can fairly expect such consideration as will permit them to continue to earn a reasonable return upon their property devoted to public use. If governmental control is so exercised as to prevent them from securing any considerable share of the business to and from the terminals and the largest possible return therefrom, such return must be derived from the other communities along their lines.

And a little later the commission says:

The situation, however, is one which these carriers can not control. The advantage enjoyed by these Pacific coast cities is in the long run a permanent advantage.

Now, just this concluding statement by Commissioner Harlan and I will have finished. The only difference between the other members of the commission and Commissioner Harlan is whether there should be a change in the rates to meet the temporary condition.

In the development of transportation nothing has yet appeared to suggest that commerce will ever move by land so cheaply as by the natural water route. So far, therefore, as may now be anticipated the all-water route through the canal must control and for the generations to come be the basis in a large degree of the trade and commercial relations between the intermountain cities and the competing communities that are favored by being ports on the Pacific Ocean.

As I say, the commission agrees with that. The argument that Commissioner Harlan is using is used to show the futility and uselessness of ordering a change during the present circumstances. During normal conditions all the commissioners would agree that that is the logical language.

And unless the economic advantage of being terminals for an all-water route from coast to coast be taken away from the Pacific coast cities by some upheaval of nature or by legislation they apparently will have in the future what they always have had in the past, namely, lower all-rail rates on commerce that can and does move freely by water than the less distant intermountain cities in the nature of things may expect to have. In all countries important cities are to be found the prosperity and commanding position which grow largely out of the fact that they are on the water and therefore have the benefit of that cheaper mode of transporting their commerce; and in many reported cases we have said that such communities may not lawfully be deprived of the benefits of their location on navigable waters by compelling the rail carriers that serve them to maintain rate adjustments that ignore that natural advantage.

That is our position and has been the position of the Interstate Commerce Commission.

Senator CUMMINS. I am trying to grasp the principle upon which your argument is based, and I will see by an inquiry whether I do fairly comprehend it. You will agree that the provision of law which forbids undue or unjust preference as between localities is a sound and salutary provision?

Mr. WETRICK. Yes, sir.

Senator CUMMINS. You, however, contend that a preference or advantage that is given to one locality by reason of competition is not an unjust or undue advantage?

Mr. WETRICK. Yes; and I think the statute contemplates that, because it makes unlawful only undue and unjust discrimination.

Senator CUMMINS. Wherever competition compels a rate, even though that rate be a lesser one than a rate to another locality over a shorter distance, that there can be no violation of the third section?

Mr. WETRICK. That there is no violation in that case.

Senator CUMMINS. It matters not what kind of competition it is, I take it?

Mr. WETRICK. No, sir.

Senator CUMMINS. There is nothing peculiar about water competition?

Mr. WETRICK. No; I should say that it is, of course, peculiar in its kind and cheaper than any other transportation, but there may be other kinds of competition or other situations justifying the maintenance of lower rates—

Senator CUMMINS. Can you imagine any competition which does not justify a lower rate?

Mr. WETRICK. No; I should think that I would have to say that if there is any competition at a further distant point which forces down a rail rate to a point that might otherwise be regarded as a reasonable basis, that it is proper to establish such a rate without requiring the rate at the other point to be reduced to that basis, where the same forces do not exist.

Senator CUMMINS. If it was a desire on the part of the railroads to build up a certain locality because it would in the end yield a larger revenue, you are of the opinion that to give that locality a lesser rate, although the haul was longer than the intermediate points, would be justifiable under the third section?

Mr. WETRICK. Not for the reason which you mention.

Senator CUMMINS. Why not?

Mr. WETRICK. If I understood your question it was simply if a carrier wants to build up a particular community, whether it should be permitted to do so for that reason, and whether if it did so—lowers the rate—it would be in violation of the third section.

Senator CUMMINS. Yes.

Mr. WETRICK. I think it should not be permitted to do so, and it would be a violation of the third section.

Senator CUMMINS. Because it would be an undue and unjust discrimination?

Mr. WETRICK. Yes, sir.

Senator CUMMINS. If it should be a noncompetitive point, why should it not be permitted to build it up as against others, where it would find competition?

Mr. WETRICK. I should say for all the reasons that induced Congress to enact that section.

Senator CUMMINS. You limit the right to make that discrimination, or give a preference or advantage to a rate that will yield the cost of transportation?

Mr. WETRICK. Yes, sir; and something beyond.

Senator CUMMINS. Why is it limited in that way?

Mr. WETRICK. For the reason, Senator, I should say, that if taking the traffic in competition with the water carriers did not net the carriers some profit over and above the expenses they are put to in transporting that the losses so suffered, if the carriers would make a reasonable return, would have to be made up on other traffic.

Senator CUMMINS. And your principle will cover all the territory that is competitive; that is to say, take the eastern territory, for instance—it will run back from the Atlantic coast to points where the rail rate to the Atlantic coast and the ocean rates to Seattle may be less than the all-rail rate?

Mr. WETRICK. I can not say necessarily that that would force the same rate back that far—if that is what you mean.

Senator CUMMINS. What I mean is this, that in connection with the shipment you mentioned from Pittsburgh, the rail rate from Pittsburgh to Seattle ought to be measured by the rail rate from Pittsburgh to New York and over the ocean from New York to Seattle.

Mr. WETRICK. I will answer it by saying that it is the combination of those rates that will determine under the principle for which we are contending what rates the carriers should and would have to establish.

Senator CUMMINS. The general principle you announce is that whenever a railroad company finds it necessary, in order to get the business, to reduce its rates within the limits we have already mentioned, it may do so, no matter what discrimination may occur at the intermediate points?

Mr. WETRICK. No; I would not say that, and that is not true under the present fourth section. The Interstate Commerce Commission interprets the fourth section as authorizing it to fix the difference that may exist between an intermediate and a terminal rate, and in applying the section it was its duty to take into consideration all the attending circumstances and to permit a departure from the fourth section to such an extent, as in view of all the circumstances, is fair and just to all concerned.

Senator CUMMINS. The fourth section does not quite say that, does it? There is no indication in the section itself as to the degree to which the carriers may be relieved?

Mr. WETRICK. I think perhaps in the fourth section itself there is not, but the commission takes the view that a provision of the act against discrimination and undue preference and advantage, supplies the measuring rod for the application of the fourth section, as near as I understand it. That, of course, Senator, I suppose you—

Senator CUMMINS. I infer it has taken that view because it has divided the traffic of the country into schedules or classifications, and has given the right to charge more for certain things to the intermediate points than to the terminal points, and in other places has not given any privilege of charging more. I think this Schedule A contains things in which there is no competition, as I understand it.

Mr. WETRICK. Yes, sir.

Senator CUMMINS. And therefore it has not relieved the railroads, as far as those articles are concerned, from the operation of the fourth section.

Mr. WETRICK. No, sir.

Senator CUMMINS. And then it has made another schedule in which the competition may be said to be moderate, and has relieved the railroads to a certain extent as to those articles?

Mr. WETRICK. Yes, sir.

Senator CUMMINS. And then has made another schedule in which the competition may be said to be still more competitive or keener and



has given the railroads to a still further degree relief as to those articles?

Mr. WETRICK. Yes, sir.

Senator CUMMINS. Has the question ever come up before the commission as to its power or jurisdiction to moderate or divide the relief that has to be given under the fourth section? In other words, whether it can say that the railroads can violate it upon one article and not on another?

Mr. WETRICK. Whether the commission has done that?

Senator CUMMINS. Yes. I ask purely for information.

Mr. WETRICK. Yes; that the commission has done.

Senator CUMMINS. Has the question been debated? Has it arisen in the form of a controversy?

Mr. WETRICK. Yes, sir; I should say it had under the amendment of 1910, when the commission came to consider its first case involving it. The first thing for the commission to decide was what its constitutional rights and privileges were under the fourth section, and this briefly here states what their idea was. They say in the decision of 1911, in 21 I. C. C., 400, at page 412, after discussing the question to a considerable extent:

Bearing in mind the authority which the commission now administers in prescribing a reasonable rate and in declaring and correcting an undue preference, it seems evident that the purpose of Congress was to commit to this body the duty of determining whether if the carrier was permitted to charge a higher rate at the intermediate point that would result in a violation of the provisions of the act. But in so doing the commission can not act arbitrarily. It must investigate each case, and if after such investigation it is of the opinion that a departure from the rule of the fourth section would not result in unreasonable rates or undue discrimination it must permit that departure. If, upon the other hand, it is of the contrary opinion, it must refuse the permission. Such is the only possible construction which can be put upon this section in connection with the entire act, and if any doubt as to the real purpose of Congress could exist, it must be effectively put at rest by an examination of the history of the passage of this measure.

Then they investigated that. They even set out arguments made by Mr. Mann and others and Senator Sutherland, and came to the conclusion that the third section prohibits discrimination only when it is undue and unjust by express terms, and under the amended fourth section, which permits the commission in special cases to allow the carriers to depart from the fourth section what they are to consider is the force of water competition, what is the proper rate for the intermediate points, and whether the terminal rate made something above the actual out-of-pocket cost, and what is the best thing for everybody concerned.

Senator CUMMINS. Have you ever considered any modification of the exceptions in the fourth section—that is to say, whether it can be expressed in more definite and in a more understandable way, so as to bring about what you believe to be the proper adjustment of rates?

Mr. WETRICK. Yes, Senator, yes; in my opinion, however, it should be worded—the fourth section should be so constructed that the intermediate rate and the terminal rate would be considered separately—not one tied to the other, as the commission has done under this amendment—and say that the rate to the intermediate point shall be fixed by the commission independently of any other rate, at a reasonable and proper figure in view of all the circumstances, and that the

rate to the coast then should be considered in view of the water competition, and it should be determined what rate the carrier should establish or should, of right, be permitted to establish to meet that, and with the further provision that if the water compelled rate to the coast, plus a reasonable and proper rate back, gives you a lower rate than the one that might otherwise be reasonable at any inland point, then it should have the benefit of such a rate; then, in my opinion, no one would be disadvantaged in any way; everybody would receive the benefit of their natural conditions and the natural forces which exist, and which the carriers must take into consideration and which the commission has always said is proper, should be taken into consideration and will be given their proper force and effect.

In other words, I feel that to the extent the intermediate rate comes within the zone of water influence, as to the limit below what the water compelled rate at the coast plus the local back has been limited, to that extent the interior enjoys a more favorable rate than it could expect.

Senator CUMMINS. Could you see any merit in it if it were worded this way:

*Provided*, That a lesser rate may be charged for a longer distance if it is required in order to meet competition at the point of the longer haul.

Mr. WETRICK. So far as my thought on it goes now, I could not see any particular objection to that. When you say "lower rate," it has reference to some other rate and assumes that the intermediate rate is established on a proper basis regardless of water competition, and then the commission may determine what rate should be established to meet the water competition.

Senator CUMMINS. Of course you know in the investigation of any particular rate that it is practically impossible to determine whether it is a reasonable rate or not, except in comparison with some other rate. You can not take a rate to Spokane and, in and of itself, determine whether it raises its share of the revenue that the railroad company must have. That is practically impossible, is it not?

Mr. WETRICK. Yes, sir; that is a difficult thing to do.

Senator CUMMINS. The commission has nearly, if not quite so, declared that, I think. Do you believe in any regulation of water transportation?

Mr. WETRICK. Well, I think the views Mr. Mann expressed on that subject express my view.

Senator CUMMINS. I asked Mr. Mann about establishing a minimum rate. Putting that aside for a moment, do you believe that the water transportation ought to be regulated just as the land transportation is regulated?

Mr. WETRICK. Well, practically, Senator, that is a question like any question upon which a person has not had much thought, that you do not like to answer offhand. I can see many reasons why it would be impracticable to do the same thing with a steamship rate as with a rail rate, and Mr. Mann did mention some of those. You will recall the point about the small relative cost of obtaining a ship and engaging in the transportation, and anyone can engage in it, whereas it costs millions of dollars to construct a railroad line and operate it. Steamship lines do not operate on regular routes, and

those that do have the competition of the tramp steamers and schooners and other ships to meet. It is such an uncertain proposition that there is no question in my mind but what it is going to be much more difficult to do anything practical in the way of regulating steamship rates than railroad rates.

Senator CUMMINS. It is, of course, well understood that the antitrust law, so-called, of 1890 is a regulation of commerce and has its foundation in that same provision of the Constitution that we use in regulating railroads. You think that the water transportation ought not to be relieved from the effect or operation of the antitrust law; is that your view?

Mr. WETRICK. No, sir; the primary purpose of the antitrust law, while it is founded upon the commerce clause, I should not say was to regulate commerce or had regard to it.

Senator CUMMINS. The sole purpose is to preserve competition—free, untrammelled competition—as I understand it.

Mr. WETRICK. Yes, sir; but not in connection with common carriers merely, and a business is subject to the operation of the act only by virtue of the fact it does engage in interstate commerce.

Senator CUMMINS. It would be manifestly wrong to allow water carriers in concert to put in rates that were so low as compared with the cost of transportation that the rail route would be entirely driven out of business, would it not?

Mr. WETRICK. Yes; I would say that, and I would say, likewise, that it would be wrong for them to combine and make rates higher than would reasonably be necessary, but it is difficult for a condition of that kind to exist—more difficult for it to exist in connection with water transportation than in connection with rail transportation for the reasons that I have mentioned—and I think that is very well demonstrated by the past history, since the railroads and steamship lines have been divorced, and the low rates established by the steamship companies after the opening of the canal certainly bear no evidence as being fixed by an understanding.

Senator CUMMINS. You think it would be unwise for the Government itself to establish any relation between land transportation and water transportation?

Mr. WETRICK. In the way that your questions to other witnesses have suggested, I should say that it would, in my opinion, be the proper policy. If the Government operates the steamship lines through the canal at any time, it seems to me that the Government should limit their rates to what will be reasonable, on the same basis or principles as applied to private transportation companies, and that the country should get the benefit of water services at reasonable rates and that they should not be kept higher for the purpose of enabling the railroads to maintain higher rates.

Senator CUMMINS. I think that is all.

Mr. ESCH. In your testimony you alluded to this statute, but you did not cite it. If you have it available, I wish you would put it in your hearings at the proper place.

Mr. WETRICK. I could not find it at the moment.

The CHAIRMAN. You can insert it in the hearings hereafter.  
(The statute referred to is as follows:)

English railway and canal traffic act of 1888, section 27, paragraph 3:

"The court or the commissioner shall have power to direct that no higher charge shall be made to any person for service in respect of merchandise



carried over a less distance than is made to any other person for similar services in respect of the like description and quantity of merchandise carried over a greater distance on the same line of railway."

Mr. ESCH. The last paragraph of section 4 contains a provision to this effect, that when a common carrier reduces its rates to meet water competition it can not thereafter increase those rates unless it can show to the commission that the conditions have changed, and they must show causes other than the elimination of water competition.

Mr. WETRICK. Yes, sir.

Mr. ESCH. That has been on the statute book for years.

Mr. WETRICK. Yes, sir.

Mr. ESCH. Has the existence of that statute, which is prohibitory in a way, had any effect upon the transcontinental carriers in making them hesitate to reduce their rates at the terminal ports?

Mr. WETRICK. I should say positively no.

Mr. ESCH. They feel confident they could secure an increase of rates by showing a change of conditions?

Mr. WETRICK. No; I would not say that, but the rates which they have established to the coast terminals they have known have never been made lower by them than water competition would force them to make and keep them, and they have nothing to fear on account of that statute with respect to having to keep those rates—

Mr. ESCH. Of course there is no compulsion by the statute on the carriers to reduce the rates.

Mr. WETRICK. No, sir.

Mr. ESCH. So that every reduction of rates by the carriers would be a voluntary reduction.

Mr. WETRICK. Yes, sir; except as forced water competition.

#### STATEMENT OF WILLIAM S. McCREA, OF SPOKANE, WASH.

Mr. McCREA. I represent the Spokane Chamber of Commerce and the Spokane Merchants' Association. I have also been asked to represent the Commercial Club of Boise, Idaho.

The southern part of Idaho is in a peculiar condition in that it is not connected with the northern part of Idaho by a railway system. It has to pass through one other State in order to reach from one part of that State to another. I am sorry that the Commercial Club of Idaho did not send their representative here, as they have made an exhaustive study of some things connected with this long-and-short-haul matter which might be of interest to you. Among other things, they made an effort to discover, and did discover, that nine States in the Union now have a rigid long-and-short-haul clause governing their railway commissions, and that a number of other States, although they have not this rigid long-and-short-haul clause, are using the mileage system.

At a hearing of the Interstate Commerce Commission last year Mr. Grass, of the Boise Commercial Club, testified that the railroads carried canned goods 3,425 miles, from New York, via Salt Lake City and Whitley, Idaho, to Seattle and back to Boise for \$1.63 per 100 pounds, while the rate to Boise straight, or 2,040 miles, was \$1.62 per 100 pounds; in other words, the railroads hauled the freight 1,300 miles farther for the additional 1 cent. He also cited an illustration

where Portland jobbers could ship a car of canned goods from New York to Portland, and then ship the same back to Shoshone and on to Minidoka and Gooding for \$814, whereas the same goods shipped direct to Boise from New York cost \$864.

A new bridge was built last year over the Priest River in northern Idaho. There was used in that bridge 85½ tons of steel. The material was shipped from Jacksonville, Ill., and the freight was \$1,547.41. If that same bridge had been constructed on the Pacific coast, a distance of 400 miles farther away from the factory where it was produced, it would cost \$966.38, or approximately \$600 less. This is a sample of the public improvement excess cost in the intermountain country.

A bank building was erected in Spokane in 1912. It cost just \$35,000 more in freight paid on material than the same building would have cost if it had been erected in one of the coast cities. The steel was purchased at Gary, Ind., and the freight was \$24.60 a ton, as compared with \$16 per ton to the coast. This amounted to \$22,360 in excess freight alone. The other items were glass, plumbing, etc. This is true of the \$2,000,000 Davenport Hotel located in our town. I am giving you these illustrations to show how the real estate market is affected by the freight-rate problem in the intermountain country. Salt Lake City, Butte, Spokane, and Tacoma are similar cities. If a person should purchase a lot in each of those cities at the same cost per square foot, and erect on each of these lots so purchased a building identically the same in every respect, it would cost him more to construct such a building in the inland cities of Salt Lake, Butte, or Spokane than it would in Tacoma, and consequently he would be compelled to charge a larger rental for his offices and stores in the buildings located inland. The renters, in turn, would have a larger overhead expense as the result of this high rental, and in turn would be compelled to charge more for goods, or, in case of professional men, for services, and in that way the consumer is affected.

This is also true of factories. The cost of constructing and equipping a factory is greater inland than at the coast points, with the result that the finished article costs the consumer more.

We had a peculiar instance come within our knowledge. Mr. Wetrick referred to the Union Iron Works and to Mr. Fitzpatrick. Up to last year the rate on structural iron from Spokane to the mining district of the Coeur d'Alene was 34 cents and the distance is 100 miles. The rate on the same article from Portland and Seattle, through Spokane to Wallace, was 30 cents, a distance of between 400 and 500 miles. We discovered that the rate from Spokane to Northport, another smelter town located inside of the boundaries of the State of Washington, was 24 cents on structural iron, as against 54 cents from the Puget Sound ports to Northport. By calling the carriers' attention to this rank discrepancy we got relief to a limited extent, the carriers making our rate the same. I simply state this case at this time to show you to what extent the carriers will go in order to build up the coast points as against the interior, and to show you that the long-and-short-haul amendment would prevent all that sort of thing. There are a lot of small matters such as that that come to our attention that it is impossible for us to take up, and we have to drop out of them. It has kept our country from growing, I think, to a very great extent.

The Holt Manufacturing Co. have a plant at Stockton. They have also a distributing plant in Spokane. If they manufacture articles and take them to Spokane it will cost them more to take them there and distribute them there than it would to take them to Grafton. Those are all matters that come in the long-and-short-haul clause, and which have no reference whatever to water competition.

Spokane, being the center of a large farming region, has two large packing plants. The rate on live stock from Montana points to Spokane, an average distance of 450 miles, is the same as to the coast, an average of 750 miles, while the rate on live stock purely within the State of Washington is on the mileage basis, and the effect is that packing plants on the coast get an even break on stock that would naturally come to Spokane or other intermountain points. While we have some little advantage from the fact that the stock has to be unloaded, yet they do ship stock clear through to coast points, and, owing to that discrimination, you can see where it builds up the manufacturing and shipping interests of the Pacific-coast points as against the inland points.

The inland empire is a term we have given to that part of eastern Washington where Spokane is located, northern Idaho, and western Montana. It is a farming region, containing also the Coeur d'Alene mines, and is, of course, quite a prosperous region for production. There are 83,406 square miles contained in that inland empire, and the population is 567,277, based on the 1910 census. Western Washington has an area of 26,356 square miles, and has a population of 712,471, as against 567,277. We have 6.8 persons per square mile in the inland empire as against 28.17 persons per square mile in the Pacific-coast region. I am giving you those figures to show that, regardless of our natural resources, that this system of freight rates has built up the Pacific-coast points as against the inland territory, where the natural resources exist.

While the population is greater on the coast the crop production is greater inland. The 1910 reports give the inland crops as \$78,794,590, as against \$17,968,325; the live-stock values of the inland empire were \$49,509,765, as against \$15,045,247 on the Pacific-coast points.

Now, just as an illustration of how the rates are spread out, I wish to present for your consideration an exhibit. This is the carload commodity schedule prepared by the railroads. It was prepared by the railroads for the purpose of showing what changes would be necessary in their rates and how far back they would go if the Interstate Commerce Commission would increase the rates according to our demands in the hearing last fall. Take carpeting, for example. The terminal rate is \$1.25 and the Spokane rate is \$1.56; Missoula, a distance of 656 miles, the rate is \$1.56; Butte, 776 miles, \$1.56; Billings, Mont., a distance of 1,012 miles, the rate is \$1.56. In order to get to the \$1.25 rate you have to go clear to Gregory, Minn., which is a distance of 1,500 miles. It gives you an idea how far inland the discrimination reaches.

You take, for instance, how the farmers are affected by that. All farming implements are affected in the same way through the Dakotas, Montana, and into Minnesota. Twine and cordage, for instance, is a very large item in wheat farming. We grow an immense



crop of wheat. We grow from 30,000,000 to 50,000,000 bushels of wheat. Taking the Dakotas and Minnesota, it is enormous. The terminal rate on twine and cordage at the present time, or at the time this exhibit was made, was 75 cents: at Spokane the rate was \$1.09; Missoula, \$1.10; Butte, \$1.10; and Billings, \$1.10. That rate would break at the 75-cent point again as far east as Bluffton, Minn., which would take in the Dakotas and Montana and part of Minnesota, almost to St. Paul.

(The exhibit referred to is as follows:)

#### RATES QUOTED PER HUNDREDWEIGHT.

Reapers, binders, mowers: From Chicago, \$1.34 to Spokane, \$1.25 to coast.

Farm wagons: From New York, \$1.56 to Spokane, \$1.25 to coast; from Pittsburgh, \$1.44 to Spokane, \$1.25 to coast; Cincinnati and Detroit like Pittsburgh.

Coffee (green): From New York, \$1.15 to Spokane, 80 cents to coast; from New Orleans, 95 cents to Spokane, 80 cents to coast.

Canned corn, peas, tomatoes, soups: From Maine, \$1.10 to Spokane, 85 cents to coast.

Mississippi River corn: Ninety cents to Spokane, 85 cents to coast. Tariff effective December 30, 1916, raises coast rate from 75 to 85 cents.

Stoves: From New York, \$1.63 to Spokane, \$1.30 to coast; from Pittsburgh, Detroit, Cincinnati, and Cleveland, \$1.50 to Spokane, \$1.30 to coast; from St. Louis and Chicago, \$1.39 to Spokane, \$1.30 to coast.

Boots and shoes, less than carloads: From Massachusetts, \$3.44 to Spokane, \$2.75 to coast, per hundredweight; from St. Louis \$2.80 to Spokane, \$2.75 to coast.

Fruit jars: From Muncie, Ind., 80 cents to Spokane, 75 cents to coast; same from Oklahoma.

Structural steel for bridges: From Pittsburgh, 97 cents to Spokane, 75 cents to coast; from Chicago, 87½ cents to Spokane, 65 cents to coast; on nails, also barbed-wire fence, same as above.

Dry goods, cotton, cambric, sheeting, etc.: From New York, \$1.25 to Spokane, \$1 to coast; less than carloads on cotton, \$2.27 to Spokane, \$1.60 to coast.

Clothing, suits, New York, less than carloads: \$3.75 to Spokane, \$3 to coast; women's cloaks, suits, etc., same rate.

Cotton underwear: From Massachusetts, \$1.88 to Spokane, \$1.50 to coast; from Pennsylvania, \$1.73 to Spokane, \$1.50 to coast.

Chinaware or earthenware: From Ohio, \$1.32 to Spokane, \$1.15 to coast.

Streak and poultry food: From Chicago, 64 cents to Spokane, 60 cents to coast.

Iron bedsteads and brass, mixed: From Chicago, \$1.34 to Spokane, \$1.25 to coast.

Iron bedsteads, straight: From Chicago, \$1.18 to Spokane, \$1.10 to coast.

Mattresses: From Michigan, \$1.27 to Spokane, \$1.10 to coast.

Lamp chimneys, lantern globes, glassware, etc.: From Pittsburgh, \$1.73 to Spokane, \$1.50 to coast.

Window glass: From Pittsburgh, \$1.04 to Spokane, 90 cents to coast.

Wire fence in rolls, hog tight: From Chicago, 90 cents to Spokane, 85 cents to coast.

Grindstones: From St. Louis, 86 cents to Spokane, 80 cents to coast; from Pittsburgh, 82 cents to Spokane, 80 cents to coast.

Kitchen utensils: From St. Louis, \$1.28 to Spokane, \$1.20 to coast.

Paint: From St. Louis, 90 cents to Spokane, 85 cents to coast; from Cincinnati and Cleveland, \$1 to Spokane, 85 cents to coast.

Bath tubs: From Pittsburgh, \$1.44 to Spokane, \$1.25 to coast.

Cast iron: From Birmingham, Ala., 85 cents to Spokane, 65 cents to coast.

Cast iron, pipe, or wrought iron: From Pittsburgh, 88 cents to Spokane, 75 cents to coast. Tariff effective December 30, 1916, raises coast rates from 65 to 75 cents. This includes sewers and water mains used in large quantities by small towns. Average size, 6 inches and 4 inches.

Cream separators: From Chicago, \$1.23 to Spokane, \$1.15 to coast.

## CARLOAD COMMODITY RATES.

*Illustration by typical commodities of the effect in northwestern inland territory of maximum rates based on water-compelled rates to the Pacific coast ports.*

[St. Paul, Minn., Dec. 1, 1916.]

## SCHEDULE B COMMODITIES, CARLOADS.

Items 4M.	Commodities.	Rates to—	A.	B.	C.	D.	E.	F.	Terminal rate applied as maxi- mum at intermediate points would cut—	Based on car-load ratings shown would cut—
370	Carpeting..... Minimum, 30,000 pounds. W-1. O-1.	Terminal (present)..... Maximum (present)..... Spokane (present)..... Missoula (present)..... Butte (present)..... Billings (present)..... Spokane (1912).....	\$1.25 1.56 1.56 1.56 1.56 1.56 2.50	\$1.25 1.44 1.44 1.44 1.44 1.44 2.50	\$1.25 1.44 1.44 1.44 1.44 1.44 2.40	\$1.25 1.34 1.34 1.34 1.34 1.34 2.16	\$1.25 1.25 1.25 1.25 1.25 1.25 1.92	A at Fridley, Minn..... B at Gregory, Minn..... C at Darling, Minn..... D at Mapleton, N. Dak..... E at Haggart, N. Dak..... F at Lehigh, N. Dak.....	A at Casselton, N. Dak. B at Driscoll, N. Dak. C at Mandan, N. Dak. Third D at Boyle, N. Dak. E at Richardson, N. Dak. F at Custer, Mont.	
376	Cash registers..... Minimum, 30,000 pounds. W-1. O-R-26.	Terminal (present)..... Maximum (present)..... Spokane (present)..... Missoula (present)..... Butte (present)..... Billings (present)..... Spokane (1912).....	2.50 3.13 3.13 3.13 3.13 3.13 5.25	2.50 2.88 2.88 2.88 2.88 2.88 4.80	2.50 2.88 2.88 2.88 2.88 2.88 4.58	2.50 2.68 2.68 2.68 2.68 2.68 4.35	2.50 2.50 2.50 2.50 2.50 2.50 3.75	A at Gladstone, N. Dak..... B at De Mores, N. Dak..... C at Sentinel Butte, N. Dak..... D at Judson, N. Dak..... E at Lyons, N. Dak..... F at Ulmer, Mont.....	A at Ulmer, Mont. B at Big Timber, Mont. C at Livingston, Mont. Second D at Spokane, Wash. E at Prosser, Wash. F at Thorp, Wash.	
432	Clothing, cotton..... Minimum, 20,000 pounds. W-1. O-1.	Terminal (present)..... Maximum (present)..... Spokane (present)..... Missoula (present)..... Butte (present)..... Billings (present)..... Spokane (1912).....	1.50 1.88 1.88 1.88 1.88 1.88 2.03	1.50 1.73 1.73 1.73 1.73 1.73 2.03	1.50 1.73 1.73 1.73 1.73 1.73 1.95	1.50 1.61 1.61 1.61 1.61 1.58 1.82	1.50 1.50 1.50 1.48 1.40 1.26 1.56	A at Randall, Minn..... B at Stockwood, Minn..... C at Fargo, N. Dak..... D at Crystal Springs, N. Dak..... E at Windsor, N. Dak..... F at Terry, Mont.....	A at Sweet Briar, N. Dak. B at Fland, N. Dak. C at Scoria, N. Dak. Third D at Miles City, Mont. E at Terry, Mont. F at Butte, Mont.	
584	Furniture, bedsteads, iron, etc. Minimum, 30,000 pounds. O-R-26. W-5.	Terminal (present)..... Maximum (present)..... Spokane (present)..... Missoula (present)..... Butte (present)..... Billings (present)..... Spokane (1912).....	1.10 1.38 1.38 1.38 1.38 1.38 2.00	1.10 1.27 1.27 1.27 1.27 1.27 1.87	1.10 1.27 1.27 1.27 1.27 1.27 1.81	1.10 1.18 1.18 1.18 1.18 1.12 1.74	1.10 1.10 1.10 1.10 1.05 1.92 1.55	A at Curtlew, N. Dak..... B at Wibaux, Mont..... C at Glendive, Mont..... D at Billings, Mont..... E at Billings, Mont..... F (no cut).....	A at Curtlew, N. Dak. B at Wibaux, Mont. C at Glendive, Mont. D at Billings, Mont. E at Billings, Mont. F (no cut).	
892	Liquors, N. O. S..... Minimum, 30,000 pounds. O-3.	Terminal (present)..... Maximum (present)..... Spokane (present)..... Missoula (present).....	1.25 1.56 1.56 1.56	1.25 1.44 1.44 1.44	1.25 1.44 1.44 1.44	1.25 1.34 1.34 1.34	1.25 1.34 1.25 1.23	A at Royaltown, Minn..... B at Stockwood, Minn..... C at Haggart, N. Dak..... D at Sims, N. Dak.....	A at Casselton, N. Dak. B at Driscoll, N. Dak. C at Mandan, N. Dak. Third D at Sentinel Butte, N. Dak. E at Fryburg, N. Dak.	
		Butte (present).....	1.56	1.44	1.44	1.34	1.34	1.17	E at Eldridge, N. Dak.....	

		Billings (present). Spokane (1912).	1.56 1.69	1.44 1.69	1.44 1.63	1.31 1.52	1.31 1.46	1.05 1.30	F (no cut).	F at Custer, Mont.
956	Pianos and organs. Minimum, 12,000 pounds. O-2. W-2.	Terminal (present). Maximum (present). Spokane (present). Missoula (present). Butte (present). Billings (present). Spokane (1912).	2.00 2.50 2.50 2.50 2.50 2.50 2.70	2.00 2.30 2.30 2.30 2.30 2.30 2.60	2.00 2.30 2.30 2.30 2.30 2.30 2.60	2.00 2.14 2.14 2.14 2.14 2.14 2.43	2.00 2.14 2.14 2.14 2.14 2.14 2.34	2.00 2.00 2.00 2.00 2.00 2.00 2.08	A at Kurtz, N. Dak. B at Wibaux, Mont. C at Glendive, Mont. D at Custer, Mont. E at Forsyth, Mont. F (no cut).	
1114	Pumps, hand. Minimum, 36,000 pounds. O-5. W-4.	Terminal (present). Maximum (present). Spokane (present). Missoula (present). Butte (present). Billings (present). Spokane (1912).	1.10 1.38 1.38 1.38 1.38 1.38 1.73	1.10 1.27 1.27 1.27 1.27 1.27 1.68	1.10 1.27 1.27 1.27 1.27 1.27 1.63	1.10 1.18 1.18 1.18 1.18 1.18 1.50	1.10 1.18 1.18 1.18 1.18 1.18 1.46	1.10 1.10 1.10 1.10 1.05 1.92 1.33	A at Wibaux, Mont. B at Miles City, Mont. C at Miles City, Mont. D at Billings, Mont. E at Billings, Mont. F (not cut).	
1240	Stamped ware. Minimum, 22,000 pounds. O-4. W-4.	Terminal (present). Maximum (present). Spokane (present). Missoula (present). Butte (present). Billings (present). Spokane (1912).	1.20 1.50 1.50 1.50 1.50 1.50 1.63	1.20 1.38 1.38 1.38 1.38 1.38 1.63	1.20 1.38 1.38 1.38 1.38 1.38 1.56	1.20 1.28 1.28 1.28 1.28 1.27 1.46	1.20 1.28 1.28 1.28 1.28 1.27 1.41	1.20 1.20 1.20 1.19 1.13 1.02 1.25	A at Antelope, N. Dak. B at Wibaux, Mont. C at Glendive, Mont. D at Forsyth, Mont. E at Forsyth, Mont. F (no cut).	
1268	Stoves, coal and wood burning. Minimum, 24,000 pounds. O-5. W-5.	Terminal (present). Maximum (present). Spokane (present). Missoula (present). Butte (present). Billings (present). Spokane (1912).	1.30 1.63 1.63 1.63 1.63 1.63 1.67	1.30 1.50 1.50 1.50 1.50 1.50 1.57	1.30 1.50 1.50 1.50 1.50 1.50 1.52	1.30 1.39 1.39 1.39 1.39 1.39 1.47	1.30 1.39 1.39 1.39 1.39 1.39 1.43	1.30 1.30 1.30 1.30 1.30 1.30 1.33	A at Custer, Mont. B at Big Timber, Mont. C at Big Timber, Mont. D at Lothrop, Mont. E at Lothrop, Mont. F (no cut).	
1360	Toys. Minimum, 20,000 pounds. O-3. W-2.	Terminal (present). Maximum (present). Spokane (present). Missoula (present). Butte (present). Billings (present). Spokane (1912).	1.50 1.88 1.88 1.88 1.88 1.88 2.03	1.50 1.73 1.73 1.73 1.73 1.73 2.03	1.50 1.73 1.73 1.73 1.73 1.73 1.95	1.50 1.61 1.61 1.61 1.61 1.58 1.82	1.50 1.61 1.61 1.61 1.61 1.58 1.76	1.50 1.50 1.50 1.48 1.40 1.26 1.56	A at Bloom, N. Dak. B at Lyons, N. Dak. C at Judson, N. Dak. D at Hebron, N. Dak. E at Kurtz, N. Dak. F (no cut).	
1448	Woodenware. Minimum, 16,000 pounds. O-R-26. W-4.	Terminal (present). Maximum (present). Spokane (present). Missoula (present). Butte (present). Billings (present). Spokane (1912).	1.50 1.88 1.88 1.88 1.88 1.74 1.69	1.50 1.73 1.73 1.73 1.73 1.502 1.69	1.50 1.73 1.73 1.73 1.73 1.57 1.63	1.50 1.61 1.61 1.57 1.49 1.36 1.52	1.50 1.61 1.61 1.40 1.36 1.46	1.50 1.50 1.50 1.34 1.26 1.11 1.30	A at Miles City, Mont. B at Custer, Mont. C at Custer, Mont. D at Missoula, Mont. E at Missoula, Mont. F (no cut).	

1 Combination



## CARLOAD COMMODITY RATES—Continued.

*Illustration by typical commodities of the effect in northwestern inland territory of maximum rates based on water-compelled rates to the Pacific coast ports—Continued.*

## SCHEDULE C COMMODITIES, CARLOADS.

Items 4M.	Commodities.	Rates to—	A	B	C	D	E	F	Terminal rate applied as maximum at intermediate points would cut—
1686	Canned goods. Minimum, 60,000 pounds. O-5. W-5.	Terminal (present)..... Maximum (present)..... Spokane (present)..... Missoula (present)..... Butte (present)..... Billings (present)..... Spokane (1912).....	\$0.75 1.10 1.07 1.10 1.10 1.10 1.48	\$0.75 1.00 1.00 1.00 1.00 1.00 1.48	\$0.75 1.00 1.00 1.00 1.00 1.00 1.42	\$0.75 1.00 1.00 1.00 1.00 1.00 1.33	\$0.75 1.00 1.00 1.00 1.00 1.00 1.28	\$0.75 1.00 1.00 1.00 1.00 1.00 1.14	A at Magnolia, N. Dak. B at Tappen, N. Dak. C at Bismarck, N. Dak. D at Sully Springs, N. Dak. E at Belfield, N. Dak. F (no cut).
1700	Dry goods (cotton piece goods). Minimum, 40,000 pounds. O-R-25.	Terminal (present)..... Maximum (present)..... Spokane (present)..... Missoula (present)..... Butte (present)..... Billings (present)..... Spokane (1912).....	.90 1.25 1.15 1.25 1.25 1.25 1.48	.90 1.15 1.15 1.15 1.15 1.15 1.48	.90 1.15 1.15 1.15 1.15 1.15 1.43	.90 1.05 1.05 1.05 1.05 1.05 1.33	.90 1.05 1.05 1.05 1.05 1.05 1.28	.90 1.05 1.05 1.05 1.05 1.05 1.11	A at East of St. Paul. B at East of St. Paul. C at East of St. Paul. D at Darling, Minn. E at Royalton, Minn. F at Crystal Springs, N. Dak.
1732	Lawn mowers. Minimum, 40,000 pounds. O-5. W-4.	Terminal (present)..... Maximum (present)..... Spokane (present)..... Missoula (present)..... Butte (present)..... Billings (present)..... Spokane (1912).....	.95 1.30 1.30 1.30 1.30 1.30 1.56	.95 1.20 1.20 1.20 1.20 1.20 1.56	.95 1.20 1.20 1.20 1.20 1.20 1.50	.95 1.10 1.10 1.10 1.10 1.10 1.40	.95 1.10 1.10 1.10 1.10 1.10 1.35	.95 1.10 1.10 1.10 1.10 1.10 1.20	A at Dawson, N. Dak. B at Sweet Briar, N. Dak. C at Edwards, N. Dak. D at South Heart, N. Dak. E at Rider, N. Dak. F (no cut).
1776	Structural iron. Minimum, 60,000 pounds. O-5.	Terminal (present)..... Maximum (present)..... Spokane (present)..... Missoula (present)..... Butte (present)..... Billings (present)..... Spokane (1912).....	.75 1.10 1.08 1.08 1.08 1.075 1.08	.65 1.00 1.00 1.00 1.00 1.00 1.08	.65 1.00 1.00 1.00 1.00 1.00 1.04	.65 1.00 1.00 1.00 1.00 1.00 1.04	.65 1.00 1.00 1.00 1.00 1.00 1.04	.65 1.00 1.00 1.00 1.00 1.00 1.04	A (Bethlehem) at Oriska, N. Dak. B (Pittsburgh) at Eckelson, N. Dak. D (Chicago) at Mandan, N. Dak. F (Duluth) at Sully Springs, N. Dak.
1784	Bar iron. Minimum, 80,000 pounds.	Terminal (present)..... Maximum (present)..... Spokane (present)..... Missoula (present)..... Butte (present)..... Billings (present)..... Spokane (1902).....	.75 1.10 1.05 1.08 1.08 1.075 1.08	.65 1.00 1.00 1.00 1.00 1.00 1.08	.65 1.00 1.00 1.00 1.00 1.00 1.04	.65 1.00 1.00 1.00 1.00 1.00 1.04	.65 1.00 1.00 1.00 1.00 1.00 1.04	.65 1.00 1.00 1.00 1.00 1.00 1.04	A (Bethlehem) at Oriska, N. Dak. B (Pittsburgh) at Eckelson, N. Dak. D (Chicago) at Mandan, N. Dak. F (Duluth) at Sully Springs, N. Dak.



## CARLOAD COMMODITY RATES—Continued.

*Illustration by typical commodities of the effect in northwestern inland territory of maximum rates based on water-compelled rates to the Pacific coast ports—Continued.*

## SCHEDULE C COMMODITIES, CARLOADS—Continued.

Items 4M.	Commodities.	Rates to—						F	E	D	C	B	A	Terminal rate applied as maximum at intermediate points would cut —					
		Rates to—												Terminal (present).					
1918	Paper, newsprint. Minimum, 40,000 pounds. O-5. W-5.	Terminal (present).						\$0.75	1.10	1.00	1.00	\$0.75	\$0.75	\$0.75	1.00	1.00	1.00	1.00	1.00
		Maximum (present).																	
		Spokane (present).																	
		Missoula (present).																	
		Butte (present).																	
		Billings (present).																	
		Spokane (1912).																	
1924	Building paper. Minimum, 40,000 pounds. O-5. W-5.	Terminal (present).						.75	.75	.75	.75	.75	.75	.75	.75	.75	.75	.75	.75
		Maximum (present).																	
		Spokane (present).																	
		Missoula (present).																	
		Butte (present).																	
		Billings (present).																	
		Spokane (1912).																	
1954	Soap. Minimum, 40,000 pounds. O-5. W-5.	Terminal (present).						.80	.80	.80	.80	.80	.80	.80	.80	.80	.80	.80	.80
		Maximum (present).																	
		Spokane (present).																	
		Missoula (present).																	
		Butte (present).																	
		Billings (present).																	
		Spokane (1912).																	
1976	Radiators. Minimum, 50,000 pounds. O-5. W-5.	Terminal (present).						.75	.75	.75	.75	.75	.75	.75	.75	.75	.75	.75	.75
		Maximum (present).																	
		Spokane (present).																	
		Missoula (present).																	
		Butte (present).																	
		Billings (present).																	
		Spokane (1912).																	
1994	Twine and cordage. Minimum, 40,000 pounds. O-4. W-4.	Terminal (present).						.75	.75	.75	.75	.75	.75	.75	.75	.75	.75	.75	.75
		Maximum (present).																	
		Spokane (present).																	
		Missoula (present).																	
		Butte (present).																	
		Billings (present).																	
		Spokane (1912).																	

<sup>1</sup> Combination, using 30 cents, back haul.

<sup>2</sup> St. Paul combination.

<sup>3</sup> Combination, using 34 cents, back haul.



Now, the United States Government, through Mr. Hoover, fixed the price of wheat as you know in Illinois at \$2.20 and we made a protest on the price that was fixed in our country, which was about \$1.85 a bushel. That was finally raised to \$1.90 or \$1.95. The excuse given was that we had no ships and no boats on the Pacific coast to carry the wheat. If we could have shipped that wheat to the Pacific coast and loaded it on the boats and taken it to points of destination, our price would have been \$2.20 or the same as the Illinois price.

Now, it is a peculiar situation that one department of the Government holds that we have no boats on the Pacific coast and therefore have to take a less rate for our wheat or farm produce, and another department of the Government says on account of water competition you have to pay a higher freight rate. We have not had a reduction of our freight rates yet. While the decision has been rendered, the matter is still before the Interstate Commerce Commission on the matter of the rate schedules which were presented by the railway companies.

The CHAIRMAN. Have you examined those schedules?

Mr. McCREA. We have not had an opportunity to examine those schedules. We have our representative in New York now examining the schedules.

The CHAIRMAN. Do you know whether the schedules in the main are reductions to the intermountain region or increases to the terminal points?

Mr. McCREA. They are increases to the terminal points and even some increases, I think, to the intermountain points.

The CHAIRMAN. Are there any decreases?

Mr. McCREA. I could not say that, but we are objecting to those rates at the present time. We think that the rates probably ought to be partly raised at the coast points and partly reduced at the intermountain points. That would give us some relief. It is a matter to be figured out on what is a reasonable rate, but it seems logical to us that if we were paying all the profit before and the coast rates are raised, that the railroads are in a position to equalize the rates by presenting some proposition whereby we would derive some advantage in the way of reduced rates. We have a representative at present in attendance at the hearings on this matter.

The matter of car shortage has been referred to several times in this hearing. We do not remember the time when we have not had car shortage in our territory of some kind or other. It is claimed by the railroads that they have to carry their tonnage at a low rate from East to West on account of water competition, and that they have an empty haul. If those empty cars were taken to Wyoming or Utah and coal loaded on them and that coal distributed to Oregon and Washington and other places where it is consumed, they could get a higher rate than they do from Pittsburgh. There is no necessity of favoring the Japanese and Chinese with these low rates and discriminating against our own people. The same is true, of course, of the movement of wheat in ordinary times. We have had wheat blockades right along, and at the same time with a car shortage cars were passing back and forth hauling lower grade tonnage. We think that situation should be taken into consideration.

It was testified, I think, by Mr. Wade, day before yesterday, that pig iron could be carried by water at as low a rate as \$5 a ton, while the actual cost to the railroads would be \$15. If the boats can carry merchandise as low as that from the Atlantic coast to the Pacific ports, how is it possible under any conditions for the railroads to compete with them? We contend, of course, that all but 10 or 15 per cent of the tonnage originates inland on the Atlantic coast, and it is impossible to load that on the cars and ship it to the Atlantic coast and then load it on the boats and take it around to the Pacific coast and bring it inland at the same rate they can ship it across the continent. We contend this is absolutely a fight of the manufacturers and jobbers of the coast points to build up the coast as against the interior, and while I am on that point I might suggest that if the law which we advocate had been in effect and if we had won our first fight 25 years ago the inland empire would have been built up to such an extent at the present time that the allies would not have had any fear of not being supplied. We can support an immense population. It has been estimated that in two counties in our State you could set the little nation of Holland, with its 6,000,000 people, and the land is as good as the land in Holland. They make their money by diversified farming. If we had the support of the railroads in building up the inland empire, there would be no trouble about a shortage of foodstuffs.

The CHAIRMAN. Suppose when the Panama Canal was opened the entire transcontinental traffic had been absorbed by that canal at low rates and the railroads had been deprived of any of that tonnage; in that event, would you expect, with a diminution of the total income of the transcontinental companies, that your rates to the interior region would be as low as they are?

Mr. McCREA. Well, there is no possibility, of course, as I said before, of anything except a small percentage of the tonnage moving by water. I think the railroads themselves estimated that 20 per cent of the tonnage came around by the Panama Canal.

The CHAIRMAN. You think the gross income would not be much affected?

Mr. McCREA. I do not think so. I think their own figures would show 20 per cent originates on the Atlantic coast, but by building up the interior country they would get back more than that.

I want to say that we work with the railroads. We know that the railroads have built us up. We could not get along without the railroads, and we have not got air competition yet, and that is the only means we could ever except, unless it be automobile competition. I presume if we get air or automobile competition, that that would compel our railroads to reduce their rates. There is, of course, on our good roads automobile truck competition with the railroads now. They go out into the country and make their rates and carry passengers and freights, etc., but we certainly think it is to the interests of the railroads to work with us rather than against us. I do not understand the attitude of the coast jobbers. While they claim to be our best friends, and all that sort of thing, as Mr. Wetrick said and Mr. Mann said, we do not possibly see how they can be our good friends and be here fighting for the railroads. What fight have they? Why should they come from Seattle at a great expense and attend this hearing if they can get their goods regardless of the

railroads? In their testimony they give us the idea that it does not make a particle of difference what the railroad rate is, that they are going to get the benefit of water competition.

I think the only thing left for us to do is to work with the railroads and build up the inland empire, and that can only be done by the use and application of a long-and-short-haul amendment. Some one testified the other day as to the population on the whole Pacific coast as 5,000,000 people; that is, in the fringe of territory that takes in the terminal points, and 3,000,000 people in the territory that takes in the country outside of that. From the schedule which I presented to you here we have estimated that there are between 13,000,000 and 15,000,000 people discriminated against, as against 2,000,000 or 3,000,000 people who get the benefit of this rate adjustment on the Pacific coast. If you will take a map and trace the terminals, you will find the line will run up about San Diego, Los Angeles, San Francisco, and it will touch the Pacific coast. You can go right out at Santa Barbara and look at the blue waters of the Pacific Ocean. The population, taken as a whole, is very much larger per square mile, although the district benefited by it is much smaller than the tremendous territory adversely affected, and it will indicate to any person that the discrimination has worked in favor of the terminal points in building them up.

We are just as anxious as the coast people and the railroads to discontinue the hearings and settle this matter, and we think the proper manner to settle it is through a long-and-short-haul clause. These hearings have been very expensive to the railroads. To prepare the present schedules of rates it must have cost them an enormous sum; to keep their high-priced legal talent and a high-priced bureau of rate-making experts, and the expenses incident to attending all these hearings, which could be eliminated and thus cut down their overhead expenses, must be enormous. To eliminate all these expenses would assist very materially the earnings of the railroads.

The VICE CHAIRMAN. I wish you would enlighten the committee, if you can, as to who your real antagonists are—whether these coast cities or the railroads.

Mr. McCREA. It must be apparent to you, Mr. Adamson, that the coast cities are very much interested, or they would not be here fighting the battles for the railroads.

The VICE CHAIRMAN. Why should the railroads desire it? It seems to me they would desire to get higher rates.

Mr. McCREA. I think possibly in their hearts they would very much prefer to have the new schedules containing higher rates, but they would have to enter into a fight with the coast jobbing cities in order to bring that about, and there is a lot of competition between the railroads. We have the Canadian Pacific, the Great Northern, the Northern Pacific, and the Milwaukee, and the Union Pacific & Burlington, and all those lines up there, and we know how they compete for business; and I want to say here and now that while some of our people may be in favor of Government ownership, I am very much opposed to it. We get very good service out of the railroads, outside of this one particular feature. Their service is splendid, and competition brings about that service. They vie



with each other to give good service in order to obtain the passenger traffic and get the freight service. I think that is of considerable benefit to us.

There was considerable trouble incident to the passage of the seaman's act, it being contended that the shipping was about to be wiped off the map on account of the different things that that act contained which caused the price of labor on the boats to be increased. If the boats can make such low rates why would they object to this particular seaman's act? Might not the Government control the steamships in addition to the railroads and fix the rates at terminal points at a level with or greater than the intermountain rates——

Senator CUMMINGS. I have been prompted to ask several times whether the Canadian transcontinental roads have higher intermediate rates than at the terminals?

Mr. McCREA. The canal cost the Government a great deal of money, and if the labor on the ships and the canal tolls and if the rates might reasonably be fixed at about the price of the railroads' charges and no discrimination will come from that, I do not see any objection to that.

Senator CUMMINGS. Do you know whether the Canadian roads charge higher rates to their intermediate points than at the terminals?

Mr. McCREA. I do not know that. I imagine if that was attempted to be brought about you would find that the same fight would be waged by the coast manufacturing and jobbing interests against the intermediate points as they now wage against the increase of their rates or the leveling of their rates. We do not believe in an increase of rates. We do not ask that. We ask for a leveling of the rates, or a long-and-short-haul clause which will give us a better rate for the shorter than for the longer.

### TESTIMONY OF MR. FRED P. GREGSON.

Mr. GREGSON. My name is Fred P. Gregson; occupation, traffic manager of the Associated Jobbers of Los Angeles, an organization consisting of the large wholesale distributors and manufacturers of Los Angeles, closely allied with the chamber of commerce, and the only commercial organization of its character in southern California.

I have not much to say, but it has to deal with two questions. As the fourth section now seems to be the order, the fourth section goes.

I want to tell you first about the jobber. I might say, before that, that my life has been devoted entirely to transportation, river, rail, and sea, and to commercial business. From 16 years of age I was employed in steamboating and railroading, and in the last 10 years in commercial life, with the exception of five years, when I was in business for myself, when I accumulated and lost a few dollars.

I want to define a jobber to you. A jobber, gentlemen, never built up a territory in existence. He never created any population, and when Judge Bartine and the intermountain people tell you that this is a jobbers' fight, it is not. We live apart from the population. We are what you might term, possibly, a necessary evil, but we are necessary for we are the proper medium for the distribution of the producers' and manufacturers' goods. We are a clearing house; we

protect the producer and manufacturer financially and carry the burdens of the weak, when it comes to lost accounts. So much for the jobber.

It is said by the intermountain gentlemen that we are in opposition to them; that we are fighting the battles of the railroads. A quick review of the Interstate Commerce Commission's hearings will show F. P. Gregson and other Pacific coast representatives opposing and fighting the railroads of the United States in each and every instance where there was an unjust discrimination raised—the great switching case. You will find us in every case where there are discriminatory rates or unjust rates, opposing the railroads and putting them on a level where they should be. As for being in love with the railroads, I used to be one of them for many years. A railroad is the rails and ties and country through which they run. Of course we love the railroads, and we respect the intelligence of some of their employees—possibly not all. So much for that.

Working under your gavel, Mr. Chairman, I may leave out something that I desire to say that might be of interest, and so I will proceed and briefly comment upon some of the evidence which has been adduced here. Mr. McCarthy, of Utah, testified here the Central Pacific Railway's net revenue was \$10,000 per mile through the State of Nevada. He did not say one word as to the revenue of the Western Pacific, which parallels for a great distance the Southern Pacific Co. He left that untouched. He did not say one word as to the poor old Los Angeles & Salt Lake Railroad—Senator Clark's road—that without the terminal tonnage could not exist for one moment; nor did he state that the revenue per ton-mile or revenue per ton-mile net earnings in the State of Nevada for the Los Angeles & Salt Lake Railroad were so low it would not permit the movement of a train once a week, and did not tell you that they have taken up several miles of road in the State of Nevada. So when you look upon the Central Pacific you do not have a true picture, and, as some of you gentlemen remarked about the weaker and stronger roads, that the stronger must take care of the weaker, how could these weaker lines live without the terminal tonnage? That brings me down to the other question. The rate per ton per mile, Mr. McCarthy says, is something like 1.72 mills per ton per mile on the coast-to-coast traffic. Do you know that the Pennsylvania Railroad makes more money at 2 per cent per ton per mile than some of these railroads do at 10 cents?

The CHAIRMAN. You mean 2 cents a mile?

Mr. GREGSON. No, sir; I am talking about mills per mile. You can make more money at 2 mills per ton per mile on some traffic than you can make out of 10 cents. I am only mentioning these things to show you how foolish it is to burden this committee with information and details that an expert—and I am not a real expert—could tear to pieces in a minute. It is density of tonnage that makes the big money. The foundation of railroad tonnage is not dry goods or groceries; it is an economic rule that you must all know, that the rich carry the burdens of the weak, and automobiles at \$500 a ton must go along with soap and flour at 50 cents, and the railroads make more money at 50 cents for flour and soap than they make on automobiles.

Some gentleman—I think Mr. Bartine made the statement, or maybe his Spokane friend—said that there was no such thing as terminal rates eastbound in this country. Now, that is another fallacy. The rates to-day on canned goods—or were before these new tariffs became effective—are based on water competition. The rate by boat from here or Los Angeles to New York is \$8 per ton on that commodity, and in order to meet that competition the rail rate has been reduced, and therefore you get that 62½-cent rate. You never hear the California men in the interior complaining of that competition. Incidentally, you never hear of a California shipper complaining of the long-and-short-haul clause and trying to get reparation, except in the case of some of these coffin chasers, as we call them. Now, that is a home proposition. As for terminal rates—this is not current, but I am shooting little “pep” in as I go along—I would ask the Congressman from Tennessee if he would object to the railroads making a rate of \$6 a ton from Birmingham, Ala., to Los Angeles or San Francisco on pig iron, when the boats bring pig iron from the interior of China to our ports on the same basis. Is there any objection on the part of the gentleman from Tennessee to a proposition of that kind? What does it do? It helps build up the pig-iron business in this country to our benefit. Are we to be driven to China for all our pig iron? And they are making excellent pig iron in China, too. That, to my mind, is one of the clearest propositions on the terminal-rate situation.

My premise in this matter is this, that the interior must rest upon the strong arm of the terminals for its living and existence and support, and can not exist without us. Let us see how they have prospered for a moment. Take our own State, and as an example take Fresno. We are all acquainted with the early history of Fresno. Read Frank Norris's book and see what the development at Fresno has been. Look at it to-day: it is an empire with a population of probably 200,000 people. It is a city of over 60,000 and they have five or six jobbing houses there, all built up under this terminal-rate situation.

Let us take the town of San Bernardino and see if it has prospered. A wholesale house went in there some time ago under this rate situation, and they have just recently increased their capital \$175,000 and I could not get a dollar of it, although I wanted some. Take Phoenix and Tucson. They have increased greatly in population under our terminal rates. Have the rates all to do with it? I think the United States Government has more to do with that than all the rates you can think of. Conservation! That is the thing.

The gentleman from Spokane has undertaken to picture to you the different portions of the freight rate from New York to Spokane, or Chicago to Spokane, showing how much it costs to haul it to that part of the road, and how much to this part of the road, and so forth. That is not his affair or mine. Why? Because the administrative body of this Government has said that does not interest us and that it is none of our business; that that is the business of the Interstate Commerce Commission, and they will not permit us to interfere with that. Why should you gentlemen be bothered with it? Because you are good-natured, I guess. We are only interested in the ultimate charge. We do not care whether Tom gets 25 cents



or Dick gets 50, or what, or how it is made up, just so we get by all right.

Now, I want to come down to potential and actual competition. I want to get right at the heart of this thing now. You are asking for figures. I can only give them to you as the figures present themselves to us in our own locality. When the American-Hawaiian Steamship Co. began operation over the Tehuantepec route in 1907, the first two or three years we handled by that route somewhere in the neighborhood of 20,000 tons. In the third year we handled 55,000 tons, and the last year it was 120,000. With the opening of the Panama Canal, the first year we handled three hundred and some odd thousand tons through the canal to the city of Los Angeles and adjacent communities. If the Tehuantepec route was potential, it was active enough to give us a great benefit in the matter of rates by that route. It caused the city of Los Angeles to spend millions of dollars in municipal wharves. We own our water front and belt lines connecting the city of Los Angeles with San Pedro.

As to the future happenings of the American-Hawaiian steamships, we, of course, can not positively state, but I will tell you this, that the American-Hawaiian Line still maintains its facilities at the city of Los Angeles, paying, I think, something like I may not be accurate in this—but paying something like \$125,000 per year, and have ever since they ceased operation. The American-Hawaiian Steamship Co. in connection with the Luckenbach Steamship Co. handled something like 350,000 tons and when they were handling this freight for the city of Los Angeles, there were idle cars and engines and idle depots, and it was a question whether the Santa Fe Railroad, which has spent several hundred thousand dollars in terminal facilities, should continue in business at that point, the water competition having become greatly intensified—it was a question whether they would be justified in doing it.

Somebody was particularly interested in California products. I want to give you an idea of what the terminal rates mean to the interior. Seventy-five per cent of the westbound tonnage of the Pacific coast comes to its terminals. The terminals must empty those cars in order that the interior points may live and prosper; that they may have reasonable means of transportation eastbound. Now, what have they got to transport? Perishable articles alone, 10,000 carloads made up in normal times of oranges, lemons, and citrus fruits; 60,000 carloads of deciduous fruits, grapes, peaches, etc.; 20,000 carloads—it may be 25,000—of melons that we eat and pay 50 cents apiece for in Washington; 10,000 carloads of potatoes, onions, and cauliflower; about 12,000 carloads of apples; and 4,000 carloads of miscellaneous. That does not take in the stuff that originates at the Pacific coast terminals, but only the interior; and when the orange case was on, when they wanted a lower rate on oranges, there was evidence to show that it would be necessary to haul these empties west to take care of them, and therefore they would have to pay a higher rate than \$1.15. But here is what happened: When they undertook to load those refrigerator cars west the Santa Fe alone put 70 per cent of the refrigerator cars under load and took away those eastbound loads. Is it not quite obvious to our wagoner friend that he can make the haul eastbound cheaper when he brings his car

westbound under load? Who does that benefit? It benefits the interior people.

As to the box-car loading, that takes in about 150,000 cars—not cars of freight loaded at terminal points, not manufactured goods and imported goods, but soil products. They are made up of such goods as dried fruits, beans, and canned fish, asparagus, nuts, walnuts, almonds—think of the diversified commodities—barley, hops, wines, borax, lumber, sugar, hides, wool, and leather.

Now, after the war—this is under normal conditions—if the Panama Canal route is opened, and if the Mississippi River route is opened, which it is, and we have handled lumber from Memphis, Tenn., by way of New Orleans, and we have handled goods as far as St. Louis along the Mississippi River, and there is no reason why we can not reach points farther inland; and we have—I want to say now there is not one article which we are purchasing in the State of Iowa or any Western State that we can not purchase at some point which is adjacent to water transportation. Take the great cities of Indianapolis and Baltimore, both large canning places, and the State of Maine, all of that territory being adjacent to water. We can transfer our purchasing power from the West to the East and bring that around by water, either through New Orleans or through the city of New York.

The CHAIRMAN. We will have to take a recess now, but we shall be glad to hear you for fifteen minutes longer at the morning session.

(Whereupon, at 5 o'clock p. m., an adjournment was taken until tomorrow, Saturday, November 10, 1917, at 9.30 o'clock a. m.)

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#### SATURDAY, NOVEMBER 10, 1917.

#### CONGRESS OF THE UNITED STATES, JOINT COMMITTEE ON INTERSTATE COMMERCE, *San Francisco, Cal.*

The joint committee met in the Palace Hotel at 10 o'clock a. m. in pursuance to adjournment, Senator Francis G. Newlands presiding; W. C. Adamson, vice chairman.

The CHAIRMAN. The committee will come to order.

The VICE CHAIRMAN. I hesitate to throw a monkey wrench into the machinery at this stage, and above all things I do not desire any personal trouble with the chairman, but there is a matter of privilege that should come before the committee at this point, and I think the chairman is not qualified to preside, and I hope he will relinquish the chair for a moment.

The CHAIRMAN. Very well; Senator Cummins, please take the chair.

The VICE CHAIRMAN. I offer the following resolution:

*Resolved*, That we are deeply and gratefully sensible of the courtesy and fairness of our distinguished chairman, the Hon. Francis G. Newlands. Our admiration for his ability and integrity is shared by the entire country, which has so long realized the value of the labors and wisdom of this faithful public servant. But in closing this session at San Francisco we appreciate most highly the consideration of our splendid chairman and his delicate and solicitous attentions to our personal comfort and convenience, so gracious and courteous as to lighten and sweeten our task, and make our period of labor here one of pleasure long to be remembered.

I move the adoption of the resolution.

The ACTING CHAIRMAN (Senator Cummins). The temporary occupant of the chair expresses great gratification in being able to submit to the committee one subject on which they will be absolutely unanimous. You have heard the motion of the gentleman from Georgia. Those who favor it will say aye.

(The resolution was unanimously adopted.)

The VICE CHAIRMAN. Not even the jar over the long-and-short-haul clause can make the proceeding inharmonious in this respect.

The CHAIRMAN. Gentlemen of the committee, I thank you very much for this kind expression.

You may proceed, Mr. Gregson.

### TESTIMONY OF MR. FRED P. GREGSON—Resumed.

The CHAIRMAN. Mr. Gregson, you have 20 minutes more.

Mr. GREGSON. At the close last evening I said that I desired to proceed this morning with the second or what I should term the first phase of this committee's investigation, and that is what I consider it, the Federal control of the securities of corporations, etc. I desire to say that our organization, as well as the chamber, are heartily in accord with that idea. The Chamber of Commerce of Los Angeles did not go to the affirmative as to the other propositions; I mean by that they took no action after a debate.

Our organization on the proposition of Federal control of rates is unanimous—that the ideal situation as existing in the State of California to-day should be continued.

I was a very interested listener to Col. Thom's very persuasive talk before the San Francisco Transportation Club last Wednesday, and I must confess, like Billy Sunday's followers, if he had continued his argument 10 minutes longer I would probably have been shouting "Glory be," and hitting the sawdust trail. I was very glad he ceased and gave me time to readjust my thoughts. Col. Thom's proposition no doubt in the future will come about, but it involves a large piece of unwieldy machinery that, to be workable, must be broken up into many units.

We are dealing, possibly, in details. I want to say, gentlemen, that business is 99 per cent details. Well-organized details under full control are generally successful, as a general rule, and it is to the perfection of details that we look for success in business. If Col. Thom's proposition should be put into effect at once, we would say that it would tear down a machinery that we have been working years to build up, and have it up to this time almost at the stage of perfection.

I now speak of the California Railroad Commission. To my mind, if other State railroad commissions are not equally as good as our railroad commission, it may possibly be the fault of the railroads instead of the people, and Col. Thom will have to start an education in his own family, because most of the trouble between the State and interstate rates are with rates originated by the railroads themselves. If I might illustrate that point, I want to illustrate it by a little proposition I have had up myself. I think it is the best way to make my thought clear. I have had a proposition before the State



railroad commission that has no business there, or before any other commission. Three months ago the agents of two of the largest lines in California had agreed with the shippers upon a joint rate from a part of the State of California to a part of Arizona. They not only agreed upon the rate, but they had agreed upon the divisions.

That was passed to the upper crust of the department, and there they were agreed; finally it arrived at what might be termed the height of the traffic end, and one gentleman said to me, "I can not get the other gentlemen to agree to what our employees have done," and I could not conceive of such a situation, and so I appealed to them and pointed out to them that the heads of two great railroads' traffic departments could not agree upon a simple proposition that had been agreed upon by their subordinates, and the subordinates dealing primarily and directly with the public. This proposition involved a State and interstate matter. To approach the State line independently of the carriers before the commission we might step over the line; that is to say, the decision that might be rendered might give us a rate that broke the then interstate rate. The solution, of course, would be to have a joint hearing before the Interstate Commerce Commission and the State commission.

The Interstate Commerce Commission, we know, are overburdened. We have had cases there for a long time before we got a hearing. After waiting an answer to my strong plea I was told to hold off and not take it up with the commission, and then followed a long succession of negotiations and dealings, involving great delays, one traffic manager being out of town at one time, it was so stated, and then the other being out of town. Mind you, they agreed on the rate; we did not ask them for the rate. After patience was exhausted I decided to make a complaint, and I had my complaint made out and ready to proceed. Again I thought I would give them an opportunity. I withheld the complaint 30 days, and I was obliged to file, not with the Interstate Commerce Commission but with the State commission, and proceed with the State rates. That was here about a week ago. That complaint was calendared, and will be heard within 30 or 40 days. That is action. That is what we want in business—action. As far as the interstate part of that rate is concerned, if the carriers do not themselves agree among themselves, I will be compelled to go before the Interstate Commerce Commission, and we will not get definite action short of six months or one year. That is what I mean by delays. Can you conceive of such a proposition?

Now, Col. Thom, there is a campaign of education necessary within your own family, and it is not necessary to educate the people—the people are not adverse to the carriers. If they will do their business, we will find that the people are right behind us—that is, the State of California and the railroad commission of California. The railroad commission of California has received the absolute approval of the Southern Pacific Railroad Co. in court in California. Here is what happened:

The appellate court was sitting in Los Angeles, and the Southern Pacific attorney and another attorney were there—this happened during Gov. Johnson's campaign—and one gentleman there remarked,

"I understand Gov. Johnson has given the people of California \$1,000,000 out of the pockets of the Southern Pacific." The attorney for the Southern Pacific said, "I do not know who gets it." The other attorney said, "There is the man who gets it," pointing at me. The railroad attorney arose and said, "Your honor, I believe you are laboring under a misapprehension regarding the million dollars that the railroad commission is giving to the State of California. It is perfectly true that \$1,000,000 may be distributed to the individuals in the State of California, but when the present commission took over our affairs they found our rates in a chaotic state and they have now placed those rates in the State of California on a scientific basis, and the money that has been disbursed by their actions and by their decisions has made no appreciable inroads upon our revenues." That was the Southern Pacific attorney to the appellate court of California.

Now, these are details that I am speaking of, but the Interstate Commerce Commission leans upon the California commission for assistance. In a case of demurrage, the people in the East are crying for cars and the eastern people will not permit a charge of more than something like a dollar a day for detention. What did the California railroad commission do? They had the question of demurrage in their own hands. They said, "Mr. Shipper, you shall not abuse the privileges of the cars placed in your hands. You will pay \$3 a day," and we paid it. The interstate charge was, at that time, \$1 a day. The Interstate Commerce Commission, sitting in California, listening to the oral arguments—I think it was Commissioner Clark who decided the case—said the interstate rate in California should be \$3 a day. Who was it that took the first action? It was the State of California. Here we have an ideal situation, and with a State 1,100 miles long and 300 miles wide. What would you do? Would you disrupt our family and make us come to Washington, 3,000 miles away, to fight our troubles before a commission that does not understand the details of the locality? I think, gentlemen, it would be breaking down instead of building up.

Something has been said about regional commissions. Do you know that we need a regional interstate commerce commission in the West? I do not care where they sit. We would prefer not to have some of the examiners we have had. I am not throwing mud at the examiners, but I believe they are the most incompetent set of men we have ever had foisted on us.

The VICE CHAIRMAN. Do you not believe we should have competent commissioners?

Mr. GREGSON. Competent commissioners—are you going to charge this time to me?

The VICE CHAIRMAN. I yield you a minute of time.

Mr. GREGSON. I heard what you said yesterday. My idea would be, inasmuch as the commissioners are all in Washington, to pay the men that you now call examiners a good salary and employ men who are trained both legally and in traffic. I have the greatest respect in the world for a legal mind, a disciplined and trained mind; but there is also another mind—that is, the disciplined, trained traffic mind—and we have a great many of such traffic men, and they are paid big salaries. Employ such men as those and pay them \$500 or

\$1,000 a month, and let them hear our cases and decide our cases with the commission. With the machinery that you have now given us in Washington, with the two additional commissioners, I believe I would be perfectly willing to leave it to those experts, gentlemen, for this reason: As I have said, 90 per cent of our business is details. When the Central Pacific Co. was built Mr. Huntington started out to build the road. He employed the greatest engineer of the day, Theodore Jewett. The United States employed experts to build a canal, and every big proposition of the day is placed in the hands of experts. You have employed experts as your Interstate Commerce Commissioners. I understand in the work of that body they must have thoroughly trained men, and while it is not always possible to get trained men the commissioners are appointed in such a way that when one commissioner comes in who may not be so thoroughly trained in traffic and transportation there are always two or three or four or five on the commission who are thoroughly trained, and after a while the other man fits in. So you have employed those commissioners as your experts, and they have told you what they wanted.

The sixth paragraph of their recommendation to Congress this year states, in order to avoid conflict between the interstate and State carriers, that Congress should empower them to sit with the railroad commissioners, in order that the evidence may be reconciled upon one record.

Now, is not that right? Take this little case that I have given you. These traffic men that do not know their own minds, who are jealous of each other and fighting each other; if the Interstate Commerce Commission to-day were empowered to sit with the State commissions I would not have to go on with another case, and therefore I say to you, why go outside of your own experts? You have them, and my suggestion is, if I may be permitted to make suggestions, to take the recommendations of your experts. That is done in everything, and done in the days of war, and is done to-day. That is all I have to say on that.

Senator CUMMINS. In view of our desire to finish this forenoon, I waive any examination.

The VICE CHAIRMAN. I think the statement of the witness is perfectly clear. I do not care to cross-examine him.

**STATEMENT OF GEORGE J. BRADLEY, SECRETARY AND MAN-  
AGER OF THE MERCHANTS & MANUFACTURERS' ASSOCIATION  
OF SACRAMENTO, CAL.**

The CHAIRMAN. Will you proceed, Mr. Bradley? I believe you asked for 30 minutes.

Mr. BRADLEY. Yes, sir. Mr. Chairman and gentlemen of the committee, my name is George J. Bradley. I am secretary and manager of the Merchants and Manufacturers' Association of Sacramento, Cal., a voluntary organization, composed, as its name indicates, of merchants and manufacturers of Sacramento and vicinity. In this case I am also appearing for the Sacramento Consolidated Chamber of Commerce, comprised of over 2,200 members.

There are four propositions which I have heard discussed before this committee: One the Federal control of securities, for which our



organizations voted affirmatively on the referendum No. 21 before the United States Chamber of Commerce; the second proposition, to give the Interstate Commerce Commission control over intrastate rates where they affect interstate commerce. It is the opinion of our people that the Interstate Commerce Commission already has that authority sufficiently delegated to it in such cases.

Thirdly, the Federal control of all rates versus our present State railroad commissions. To that proposition we voted negatively for reasons it is not necessary probably for me to go into exhaustively, as our State railroad commissioners have already discussed that matter; and while we are probably peculiarly situated in California—and it may to some extent have influenced our position, because we feel we have an excellent commission—but the geographical location of California, being about 1,100 or 1,200 miles long, makes probably 75 per cent of our controversies with the railroads intrastate in character. We get quick action, and, as Mr. Gregson very aptly put it, that is what we want. We realize the burdens of the Interstate Commerce Commission, and we think their recommendations to Congress should be sufficient.

We come, lastly, to the all-important question (it seems at this hearing; it seems to have predominated every other issue), namely, the rigid long-and-short-haul clause.

I speak to you gentlemen as an intermediate point; that is, a point which does not enjoy the so-called terminal rates. I therefore might have been expected to take an opposite position from the coast cities, but, on the contrary, I am thoroughly in accord with their position, and my reasons for it I shall state briefly, taking up what I consider the tangled ends which have not already been covered.

I may say broadly, as my first premise, that I am firmly of the conviction, aside from any predilections I may have by virtue of the community that I represent, that it is best for the people themselves and for the intermountain country; that the present adjustment of rates, with certain modifications, as the commission has been given power to adjust, as a broad, general proposition, is the better one for the intermountain people themselves. I think it would be most unfortunate, at this time at least, to agitate a rigid long-and-short-haul clause.

The Government of the United States and the people of the United States are demanding at the hands of these carriers a high state of efficiency and improved facilities of all kinds. The carriers, on the other hand, are demanding at the hands of the people who pay the freight rates the money with which to provide these efficient facilities and this high degree of efficiency. The carriers have only one way of getting revenue, and that is from the people who pay the freight.

Do you realize—I wish to leave this thought with you—that a rigid long-and-short haul clause applies not only in the little intermountain regions, which you are discussing here with these Nevada and Washington and Arizona people, but that it means the affecting of millions of rates all over the United States? Practically 75 per cent of the interstate rates in the United States will be affected by a rigid long-and-short-haul clause, which, if Congress passes it, must apply, of course, to the entire United States. Not only that, but it would affect

hundreds of millions of dollars of the carriers' revenue. That is axiomatic, because I do not believe our intermountain friends would accept the proposition for a moment that they could build up cities and manufacturing towns overnight, and therefore, for at least a period of a few years, the carriers' revenues must be adversely affected, and therefore, as the only source of revenue they have is from the people themselves, it would necessarily mean a very high raising of the rates at all points.

Now, for a moment, let me call to your attention the inconsistency of our friends in the intermountain section—and when I use the term “friends” I say it advisedly because they are our friends; they are large purchasers of our goods and we have friendly relations with them; we buy a great many goods from them because they are producers, too—but in this intermountain situation which has been before the commission a number of years, it has been the contention, at all times, by the representatives of the intermountain country, that the present Pacific coast terminal rates are reasonable in and of themselves, and therefore, any higher rate charged to the intermountain country was unreasonable and unduly high and preferential, and yet we find these same gentlemen coming before this committee at this hearing and stating to you that the new tariffs which the carriers have filed with the Interstate Commerce Commission, raising the terminal rates without in any particular reducing their rates, but in some instances really raising their rates, are satisfactory to them, showing, gentlemen, that what they are really after is not lower rates to the community which they represent, but simply the relationship of the rates, and they themselves are the men who are making of this case—which they deny—a jobbers' fight.

Let me cite to you one instance of history, which will prove my contention in that respect. Prior to 1911 the rates to the intermountain territory were made by the full combination on the Pacific coast. In 1910 the case was brought jointly by San Francisco and Sacramento. At that time Sacramento enjoyed terminal rates, and therefore the rates were based from Sacramento back into the intermountain territory, the rate from San Francisco to Sacramento being a proportional rate or differential rate. The first-class scale of rates at that time from Sacramento to Reno was \$1.29. Therefore the combination from the eastern ports to Reno was made by the water-compelled rate, as we claimed, to Sacramento, plus the local back. They went before the Interstate Commerce Commission and complained of that rate. We got a decision from the Interstate Commerce Commission reducing the scale of rates from Sacramento to Reno from \$1.29 to 85 cents a hundred pounds, which you will admit is a very substantial reduction, and yet, in that hearing, and in the trial of that case not one single city or commercial organization in Nevada intervened or was represented in that case, and they took absolutely no part in the conduct of that case, nor helped us in the reducing of the rates, showing they did not care for the rates to be reduced from the coast, because they had an idea that would help the coast cities distribute their goods back into their territory.

In the brief time I have allotted me I think that is sufficient to cover that point.

One of the Reno witnesses, Mr. Gardiner, indulged in a criticism of our President in his appointment of the two commissioners under

the act, and Judge Bartine, if you remember, had quite a little to say about environment. We are prepared to agree with those gentlemen, if they desire us so to do, that environment has its effect. In answer to that criticism I call your respectful attention to the fact that in every decision and every hearing of the intermountain cases since 1912 the presiding officer, on the authority delegated to him by the Interstate Commerce Commission, has been Examiner Thurtell, who was for quite a while the examiner—and I believe he is to-day—in charge of all the fourth section cases. Examiner Thurtell heard those cases, and the decision of the Interstate Commerce Commission must have been, to some extent, predicated upon his recommendations. Not only that, but at one time Examiner Thurtell was a professor in the Nevada University, and a commissioner on the railroad commission of Nevada. Notwithstanding that, in every particular the decision of the commissioner has been in accord with the railroads' contention, except possibly to the extent to which they might violate the long-and-short-haul clause. I simply put that to show you that in every particular the railroads' position with reference to rate making, giving effect to water competition, giving the communities affected the benefit of water competition and the benefit also to the intermountain section itself—and it was to the benefit of the intermountain people themselves—the railroads' position has not only been upheld, but those opinions have been largely gathered and briefed by an ex-railroad commissioner of the railroad commission of Nevada.

Judging from some of the questions propounded here by the different members of this committee, the impression seems to have been that the railroad rates are made all the traffic will bear. In justice to the railroads let me say, gentlemen, that this may be true so far as class rates are concerned, but this has been a very much abused term. What the traffic bears means what the traffic will bear and move; that is, regarding class rates; but let me say, in my opinion, based upon 10 years' experience in handling traffic matters with the railroads, I am willing to concede that in probably 90 per cent of the cases the jobber, based upon competitive conditions, absolutely dictates the rate the railroads make. Class rates, we know, are made upon what is called a key or normal scale. Where they are affected by water competition they may be lower, or where they are affected by the short-line competition they may be lower, but they are usually made on a scientific key of so much per mile. But as to the reasonableness of the class rate, it is largely based upon the density of the traffic and the competitive conditions, or the cost of service, or the value of service to the shipper.

Senator CUMMINS. Will you state what proportion of the traffic on the western coast moves on class rates and what on commodity rates?

Mr. BRADLEY. I should say 75 per cent on commodity rates and probably less than 25 per cent on class rates. But I may interject there, Senator, under the new tariffs filed by the carriers, effective October 15, all less than carload commodity rates have been canceled, and therefore a very much larger percentage of our less than carload business will move on class rates.

Commissioner Lane, in one of his intermountain cases, stated that he had never heard yet a witness, either railroad or commercial or



shipper, state or tell him what was a reasonable rate per se, and it can not be done. Prior to the opening of the Panama Canal, when the Panama Railroad & Steamship Co. was owned and operated by the United States Government, carrying traffic from New York to their port site and across the Isthmus went back into the interior and absorbed a maximum of 20 cents per hundred pounds of the rail interior rate to the coast and the port of New York. This was the competition that the railroad trans-continental carriers had to contend with by a Government-owned instrumentality.

Mr. ESCH. They reached back as far as Pittsburgh in one case, and in another case as far as Cincinnati.

Mr. BRADLEY. They would absorb up to 20 cents.

The VICE CHAIRMAN. In 1904, when our committee went down and looked over the previous errors of a former commission and showed them how to build the Panama Canal, we made an investigation around there and recommended that the Panama Railroad put ships on this side of the continent and put in through rates from the Atlantic to the Pacific. Somehow or other the President did not accept our recommendations. That was before the canal was constructed, but the railroad was operating and able to do business.

Mr. BRADLEY. May I be indulged just a moment to give you a little brief history of the city I represent?

Sacramento, the capital of California, was the first terminal-rate point on the Pacific coast. It is one of the oldest cities in California. In the days of the gold rush of 1849 the clipper ships came around the Horn, and Sacramento was the head of deep-water navigation. The interior, intermountain country, and the mining country in California and Nevada were served by ox teams from Sacramento. It is a matter of the early history of California that there had been thousands and thousands of tons of freight unloaded on the banks of the Sacramento River at Sacramento, with no warehouse nor facilities to move them, such was the demand for goods. The Central Pacific Railroad Co., the first transcontinental railroad, was born in Sacramento. It was fostered and, as this chairman knows, was financed and engineered through by Sacramento merchants. Therefore it was, primarily, the Alpha and Omega of the Central Pacific Railroad. We had terminal rates, so called, before San Francisco did, because we had the railroad before San Francisco did. Later on the railroad was extended to San Francisco, and we, having enjoyed the terminal rates which were promulgated when we were the end of the road, still enjoyed those rates, and for a long time had lower rates at Sacramento than San Francisco, even after the road was extended to San Francisco. Then came the water competition to San Francisco, which, of course, had been large before, and both cities began to grow. Sacramento for 50 years maintained those rates. About four or five years ago, when Santa Rosa shot her loaded gun, the carriers were authorized and directed by the Interstate Commerce Commission to adjust the situation either by giving Santa Rosa terminal westbound rates or withdrawing them from other points, except those at which ships actually docked and unloaded their freight.

Prior to that time, or prior to the opening of the canal, I may say, the American-Hawaiian and Luckenbach Steamship Cos., the two principal carriers operating between the Atlantic and Pacific,

had absorbed the charges between San Francisco and Sacramento, but when the Panama Canal opened and the rates were very much reduced from the Atlantic to the Pacific, the steamer lines withdrew their terminal absorptions between San Francisco and Sacramento and made a flat rate applying from port to port. Then, as I say, Santa Rosa brought her case, and the carriers were directed to adjust their terminal rates. To this extent, I want to correct Mr. Mann's testimony. Sacramento was not a party in that case, nor was Sacramento mentioned in the Santa Rosa complaint. When the carriers were ordered to adjust those rates, the carriers removed the rates from Santa Rosa and San Jose, and then the matter came before the commission, and they were directed to withdraw rates except at ports where the ships docked. Sacramento, having enjoyed those rates for 50 years, asked for a rehearing on the matter, and we were denied that, and, disagreeing with the Interstate Commerce Commission, we took an appeal to the Commerce Court. We got an interlocutory order, and it was appealed to the Supreme Court by the Interstate Commerce Commission. There we lost. We bowed to the judgment of the courts, and therefore this explains why we have no longer terminal rates at Sacramento.

Regardless of that fact, however, we contend that the position of the carriers, approved by the Interstate Commerce Commission, your delegated authority, is the correct and scientific basis upon which rates should be based, and therefore we have no quarrel or contention as to that.

Now, Mr. Congressman Adamson asked one of our witnesses yesterday a question—if he thought the railroads really wanted these lower rates to the coast or whether they were forced to put them in by the coast people themselves. Let me say, if I may, in answer to the gentleman's query, that the railroads, like politicians, always have their ears to the ground. I will grant, if you like, Judge, that the carriers may listen to the persuasive or forceful arguments of the coast people, but let me say further that the great and powerful arm of the Government established by you and your confreres are not politicians. They have not their ears to the ground. They are absolutely able, fearless, and, in my opinion, honest; and in every decision which has been rendered by the Interstate Commerce Commission since these intermountain cases were first opened has been substantiation of the principle of water competition, the only varying point being the extent to which the carriers might violate the fourth section.

The amended fourth section gave the commission the power to say to what extent the carriers could violate the long-and-short-haul clause. The commission, after a full investigation and hearing, as authorized by the fourth section, came to the conclusion that there were some commodities in the tariffs which were not subject to strong and forceful water carriage, and therefore no higher rates should be charged to the intermountain territory than to the terminals.

There was another schedule of rates, known as schedule B, which has been referred to, that was subject to water competition, but not to the strong and forceful degree as the heavy iron and steel, wire nails, etc., and they fixed a schedule of rates—not the full local back, be-

cause they said that that was too high a measure—but fixed a percentage relationship.

Along when the Panama Canal came and there came still more forceful competition in the water rates—and there were rates as far back as Pittsburgh and Chicago—the carriers went to the commission and they got further relief, and then the extent of the violations the commission allowed was 75 per cent of the locals back.

You have delegated, I submit, to this great body of rate experts the power to pass upon questions of fact regarding the reasonableness or unreasonableness of rates or systems of rates which have been promulgated by the carriers. You have given that full authority, and even the Supreme Court, the highest authority in the world, has stated they will not review questions of fact passed upon by the Interstate Commerce Commission. Is it not fair to assume, then, that this principle of rate making, having been passed on and being argued pro and con in the last 10 or 15 years, and the commission invariably in every case having come to the same conclusion, is it not fair to assume that their proposition is at least a scientific and fair one and does not do any injury to anyone?

Now, the decision of June 30, 1917, is a situation in which the Interstate Commerce Commission found that the water competition of the Pacific coast had ceased temporarily. They admitted that themselves, and therefore the commission denied the carriers the right to further violate the fourth section, and the only dissenting opinion that has ever been rendered in the intermountain cases was rendered in the decision of June 30, 1917, when Commissioner Harlan, agreeing as he did with the commission that water competition had been suspended and was not active but potential, nevertheless, in that dissenting opinion stated that as a matter of fact the intermountain people, if any benefits were to be realized by them at any time, it would be only a temporary benefit and that when water competition returned they would be worse off than they were at the present time.

Now, gentlemen, let me say in conclusion that if, in the wisdom of Congress, they should find it desirable to pass a rigid long-and-short-haul clause the community I represent, in my humble and candid judgment as a citizen of California and as a man who has given some thought to traffic matters, will be very much less affected than the intermountain territory, and that the result, for years to come, at least, of such an adjustment of rates will mean a building up more and more at or near the coast, because that is where the traffic is and always will be. You gentlemen must remember that we had water competition before there were railroads. The railroads came to the water, and why? Because there is where the traffic was and they came there to get some of that traffic. We were cities before the railroads were built, but the interior country are the creatures of railroad building, and very few at least of them amounted to anything before the railroads were built, and your great body of experts, the Interstate Commerce Commission, has said repeatedly that all great cities were at or near tidewater.

If I may take two minutes more of your time, I want to give one illustration of where a rigid long-and-short-haul clause would act adversely right with us here, aside from any transcontinental situa-



tion. The first-class rate from San Francisco to Portland, Oreg., is 50 cents. The first-class rate by water from San Francisco to Sacramento is 22 cents. The result of that is that we have a first-class rate from Sacramento to Portland of 72 cents, made on the combination of the two water-compelled rates. The Interstate Commerce Commission some years ago—I am sorry I can not refer you to the case here, which is known as the Portland case, which was one of the fourth-section applications—but the Interstate Commerce Commission, as a result of that hearing, again admitted the forceful water competition between San Francisco and Portland, and they fixed a scale of rates at the high point in Oregon of \$1.50. The rate between San Francisco and Portland is, therefore, graded up after it leaves the water influence at Sacramento until it gets up into Oregon and reaches \$1.50, the highest rate, and then, as they begin to feel again the effect of water at Portland, the rate begins to go down again until it gets to the 50-cent scale at Portland.

Is it not axiomatic, gentlemen, if a long-and-short-haul clause were enacted, we would either have to use the entire waterways from Sacramento to San Francisco and San Francisco to Portland or else our rates would be graded up to Portland, until at Portland we would pay a rate of \$2? And who pays the rate? The consumer pays the rate, the gentleman whom you are presumed to, and do, represent.

SENATOR CUMMINS. For the same reason as previously expressed I forego any examination.

MR. ESCH. There is one phase I want to inquire about. Mr. Bradley, you stated that if the long-and-short-haul clause were made rigid in its application: that is, no exceptions would be allowed, it would not only affect the intermountain country but the whole United States.

MR. BRADLEY. Yes, sir.

MR. ESCH. And that there are many exceptions now allowed under orders of the Interstate Commerce Commission in various parts of the United States, especially down in the southeastern section?

MR. BRADLEY. Yes, sir.

MR. ESCH. Are not business industries and manufacturing industries and industrial plants and whole communities based upon the operation of the exceptions to the fourth section?

MR. BRADLEY. That is my information, sir, that they are.

MR. ESCH. Then your point is if the section were made rigid, no exceptions allowed, it would adversely affect industries and communities?

MR. BRADLEY. I think so, absolutely, Mr. Esch, and if I may be allowed, I may illustrate that in this way, or rather illustrate the result: The result, in my opinion, would be that you would build up small, restricted zones in which any industry, either producing or manufacturing, would be limited to the extent to which it could meet competition elsewhere. In the making of railroad rates it is axiomatic, and necessarily so, especially in cases of long distances, that distance is absolutely disregarded.

MR. ESCH. My idea is this, that the recent decision of the Interstate Commerce Commission has in view the discontinuance of water competition, especially as to that intermountain territory—

Mr. BRADLEY. Yes, sir.

Mr. ESCH (continuing). By reason of our ships being taken from the Pacific to meet war conditions.

Mr. BRADLEY. Yes, sir.

Mr. ESCH. That absence of competition, however, would not apply to other sections of the country.

Mr. BRADLEY. No; that is true. But what I had in mind, possibly, if I follow you in your question, was that I stated an absolute rigid long-and-short-haul clause would not only affect the rates between New York and San Francisco, but would naturally affect 75 per cent of the rate structure of the United States, because, as Mr. Mann pointed out in his talk, after the amended fourth section was passed there were over 10,000 applications filed with the Interstate Commerce Commission, not necessarily, mind you, for relief, but simply to avoid penalty, because a great many of those violations, since the passage of the act, were wiped out, and possibly not more than one-third of them exist to-day, and of that one-third they have not been passed on by the commission or been allowed by the commission.

Mr. ESCH. In citing the Portland-Sacramento case, where you get the water rate via San Francisco to Portland in combination with the all-rail rate, would you not have to break bulk on your water traffic or do you have deep-water transportation up to Sacramento?

Mr. BRADLEY. We do not, Mr. Esch, we are sorry to say, and I can not resist the opportunity right here to say one word of criticism of our Congress. There was a time when we did have deep-water navigation to Sacramento—not, as you know, 8,000 or 10,000 ton ships, but clipper ships. When hydraulic mining was permitted by the Government and until it was stopped, as it was, millions upon millions of cubic yards of mining débris were allowed to accumulate in the foothills of the mountains. When the torrential rains came, this débris would wash down into the river, and our rivers were choked up with this débris, and we have a paltry appropriation of \$30,000 a year to keep the Sacramento River dredged for a distance of something like 100 miles between Sacramento and San Francisco to provide a 4-foot channel, which is the draft of the ordinary boats plying between San Francisco and Sacramento.

But we would have to trans-ship everything sent via San Francisco that way to other boats.

Mr. ESCH. In our flood-control bill we appropriated about half a million.

Mr. BRADLEY. I know you did, sir; and I would like to refer to that and compliment Congress. That was, however, more for flood control than navigation. That was done in connection with a like appropriation from the State, and that was for widening the mouth of the river in order to prevent inundation of the lands, where a great deal of produce is raised, and, I will say, that was more for flood control than for navigation.

Mr. SIMS. Are not all rates, temporary—by nature, circumstances, and conditions?

Mr. BRADLEY. I should hardly say that, Mr. Sims. I should say this: That it may be they might be temporary, because they are always subject to attack and investigation by the Interstate or State commissions, and conditions might change the character of the rates, so that they might be called temporary.

Mr. SIMS. I admit that there may be a permanent system by which rates may be established, but the actual rates themselves—are they not almost always temporary? Is not the situation so changing that there is not anything like a permanent system of rates that exists over a long period of years?

Mr. BRADLEY. I say no, sir; that, generally speaking, the rates are permanent, and when there is a change it is either because the rate has been attacked by some community because of its alleged unreasonableness or else the carrier, finding himself in need of more revenue, attempts to raise them, and that is sometimes done. Under the present law they would have to get permission from the commission, and prior to that time they would have to get permission from the commission, and we would have an opportunity to attack it before the commission. I should say the rates are not temporary.

Mr. SIMS. Are there not hundreds of thousands of rates filed every year by the railroads?

Mr. BRADLEY. Yes, sir; most of them are advances.

Mr. SIMS. But they are changes in the rates?

Mr. BRADLEY. Yes, sir; but remember there are millions of rates in the United States, and when you say thousands it is a small percentage.

Mr. SIMS. I said hundreds of thousands.

Mr. BRADLEY. I should not say it was hundreds of thousands. There may be some rate schedules filed that will affect hundreds of thousands, but I would not say generally so. The rates on a particular commodity may have changed, but it would not change the rates.

Mr. SIMS. Have not the railroads the arbitrary power of classifying their freight?

Mr. BRADLEY. Yes, sir.

Mr. SIMS. Do they not often take a commodity out of one class and put it into another, and make it special?

Mr. BRADLEY. They have that power, but if you are familiar with the investigations of the Interstate Commerce Commission in western classification No. 52, they directed the carriers—I am speaking only of the western carriers with which I am somewhat familiar—they directed the carriers to take the shippers into their confidence and give them some notice of changes. The result is that the western classification committee, sitting in Chicago, with a member of the Interstate Commerce Commission sitting with them, sent out to the commercial organizations that asked to be placed on the mailing list, together with prominent shippers, notifications 30 days in advance, and our representatives can appear there before any changes are made, and they appear there, and these changes are discussed pro and con before they are made. Now, after they have decided that they want to raise the classification on a commodity, let us say, from third to second class, they file that classification with the Interstate Commerce Commission, and we still have the right of protest and suspension.

Mr. SIMS. But they have the power—

Mr. BRADLEY. Yes, sir; they have the power to make rates.

Mr. SIMS. That is my question. Are not all commodity rates, in their nature, special rates?



Mr. BRADLEY. Exactly; that is my contention at all times.

Mr. SIMS. Therefore are subject to change at any time as special circumstances may demand it?

Mr. BRADLEY. Yes, sir.

Mr. SIMS. How can we have real, permanent rates affecting any section of the country?

Mr. BRADLEY. You can not without disrupting the entire commercial fabric of the United States.

Mr. SIMS. Is it not always liable to affect the commercial fabric of the United States by having these continuous changes?

Mr. BRADLEY. I think not.

Mr. SIMS. In other words, you think the changes will not be made so as to do that?

Mr. BRADLEY. Exactly. The carrier in all cases always looks out to see that the relationship is not changed so as to affect its locality adversely. The localities always look out to see that there is no change affecting adversely their interests, and always you will find in a city where there is any commercial activity a bureau with a traffic expert at its head, not to harass the railroads, but simply to protect, if they can, the commercial interests they represent, so that the proper adjustment and relationship of rates is maintained between the carriers and the different communities.

Mr. SIMS. Do you think that our system of classification, or a system of classification can be devised that is entirely and easily understood, and will not do injustice to all regions affected, more than at present in effect by the railroads?

Mr. BRADLEY. I can only answer that by saying that the carriers, in conjunction with the Interstate Commerce Commission experts, have been working, for the last 10 or more years, to create and make a uniform classification which will be satisfactory to the commercial needs of the entire country, and I think thus far they have gotten about one-third of the way through.

Mr. SIMS. That means at the end of about 30 years they may come to a uniform classification, but upon conditions which did not exist when they made the first portion of their adjustment?

Mr. BRADLEY. Yes, sir; and they must change again, because the first portion of the investigation has changed. The commercial situation in all this country must vary, and it is almost impossible to devise a uniform classification. A commodity that may be of small moment in one community may be of importance in another community, and therefore it is axiomatic in this vast country that these complex situations must always arise, and you must have not only flexible rates, but you must have ever delegated in the Interstate Commerce Commission that flexibility which your confidence in that body will permit.

Mr. SIMS. Then the rates must be temporary?

Mr. BRADLEY. Yes, sir.

Mr. ESCH. Do you believe that we should give the commission the power to establish a uniform classification? You have the official classification territory—

Mr. BRADLEY. Yes; and you have the southern and western classification territories, and in many items there are differences

in the classification. They have different rules as to packing and different rules as to the description of articles, and there are a thousand and one other things.

Mr. ESCH. Would it promote business or stabilize business if we gave the commission the power to establish a uniform classification?

Mr. BRADLEY. I think not. I think it would have the opposite effect. In my early days, for a number of years I was in the employ of a large railroad system, the Southern Railroad. We carried rates from Memphis, Tenn., to Atlanta, Ga., let us say, on dried apples and dried peaches, second class. The rate was about fifty-odd cents, I think, on 100 pounds of dried apples. They were classified in the classification as second class. Why? Because there was a negligible movement. There were no dried apples that moved in that section, and they had to call them something in the classification, and they were put in the second class. In California they were put in the fourth class, because there was an enormous movement, and it required a low class to move them, and if you did not classify them consistently with the movement the result would be that you would have to take them out of the classification and put them on a commodity rate or they would not move at all.

Mr. ESCH. Now, we have had various classification committees before our committee on legislation looking to a uniform classification, and we have been impressed more and more each succeeding year with the fact that an unconscionable length of time has been taken to establish a uniform classification in the three classes, and the wonder was whether it would not be possible to give that power to the Interstate Commerce Commission. Under the existing legislation a representative of the Interstate Commerce Commission may sit with the classification committee, but he has no authority.

Mr. BRADLEY. No, sir; even in our western classification territory, which only covers about a third of the United States, there are such local conditions arising all the time that they have exceptions to cover those conditions. Take the Southern Pacific Co. and their lines here: they have an exception sheet covering Nevada and Arizona, and they have a different exception sheet from the western classification applying in Oregon. We work under three classifications—the western classification, and the exception sheet applying to Nevada and Arizona, and the exception sheet applying in Oregon.

The CHAIRMAN. I received a letter from Chairman Edgerton, of the California commission, inclosing a report of the special committee on public ownership and operation as contrasted with private ownership and operation of all public utilities, made as chairman of the committee of the National Association of Railway Commissioners, and asking that it be put in the record.

Mr. THOM. What year?

The CHAIRMAN. 1917.

Mr. ESCH. I move that it be considered.

The CHAIRMAN. If there is no objection, this letter and report will be considered in the record, and the reporter will see that it is printed in ordinary type, as distinguished from the fine type.

(The papers referred to are printed in full on a part of Commissioner Edgerton's testimony.)

## STATEMENT OF J. N. GILLETTE.

The CHAIRMAN. Gov. Gillette, are you ready to proceed?

Mr. GILLETTE. Yes, Senator. For the record, I will state that my name is J. N. Gillette, and I am an attorney at law at San Francisco. I might say to the committee that I was in Congress in the Fifty-seventh and Fifty-eighth sessions, when the Esch-Townsend bill was first introduced. Afterwards it was replaced by the Hepburn bill. I became considerably interested in the interstate-commerce act and the regulation of the railroads by the commission. After I left Congress I was elected governor of California, and in 1909 I favored the passage of a bill tending the powers of the railroad commission to follow as nearly as possible the line of the act of Congress. The bill since has been extended to take in public utilities.

I thought at that time, and believe now, that it is important to the country and to the railroads themselves that there should be proper regulation. There was a great deal of fault found throughout the country before this act on account of discriminations in favor of individuals, rebates, high rates, etc., among other complaints which it was thought might be remedied if a proper commission were appointed, giving them proper powers. For 10 years we have been testing this law not only through the Federal act but through numerous statutes in the States, and a railroad commission has been appointed that has under consideration railroad rates and other matters of that kind.

In the last 10 years there have been very few new lines of railroad built: few improvements have been made: the rolling stock has been neglected, and securities have been impaired, and at the present time I understand it is difficult to float bond issues to give the companies the necessary money that they should have to properly equip their roads, keep them in proper repair, and give the service which the public should have. What the people want is adequate railroad service, a quick, safe, and efficient service, and that, it seems to me, is a question which is of grave consideration.

There are three ways in which railroads can be handled: first by private corporations, as in the old days when they had full control of everything and decided what their bond issues should be and stocks, etc., and what the rates should be, which has broken down, and then Government regulation, which we are passing through, and finally the public ownership of the roads themselves. That would be the last, but I think before that comes that every effort should be made on the part of the Government to regulate the roads in such a way that they can carry out the purposes for which they were constructed.

I have a few ideas that I want to suggest. I think better results can be obtained in this great big question which largely affects the people if the whole matter was left in charge of the Federal Government. I think many abuses will arise through the control of these large corporations that are doing an interstate business by the different State commissions, and that the companies would feel safer and the results obtained would be better if we left the whole matter in charge of one commission, or, rather, in charge of the Federal Government. There could be regional commissions or district commissions, as in the case of the district courts, to which the people could go



and get relief. There is a great deal of conflict and will be between State control and Federal control; and I can not see why there should be more than one control. I believe this law should provide that all bond issues should be left in the discretion of the Federal commission. It should decide what bonds should be issued, and upon what terms and what rates of interest, and also the question of stocks should be left to this commission. I think this would relieve the situation a great deal.

It is very important that the railroad companies should know just exactly where they stand and what they can expect in the prosecution of their business. They ought to be able to receive a fair return for the amount which they have invested, and they should be permitted to keep on hand a sufficient surplus to meet any emergency which may arise. Their roads should always be kept in good repair, and the rolling stock should be kept in good repair, and we should have sufficient equipment in the country to meet the emergencies of the country. Our State has suffered for some time and will continue to suffer for lack of cars during the harvest time, because they can not get the money with which to build the cars and keep them in repair. If this matter is under the control of the Federal Government then it will be responsible for fixing rates which will enable the roads in interstate and intrastate business to properly repair their roads and equip them and pay to the people who have put their money in the roads a fair return. What the people want and the Government wants is adequate service, and that is more important than rates; but fair rates will give good service.

There is another question which I think should be considered, and that is the question of the relationship existing between employers and employees. Everything should be done to prevent strikes and the tying up of the great arteries of trade. I am of the opinion that the commission should have the right and power to hear and settle labor disputes. If the laborers are not satisfied with the hours of labor or conditions, that matter should be presented before the commission, where everybody could have fair hearing, and there would be somebody to pass on it. It will not do to have the condition which existed at the time when the Adamson bill was passed occur again—a threat to strike that would tie up the commerce of the entire country. I do not see why this matter could not be presented to the commission. They can hear all the evidence and pass on the rates of pay, hours, etc. After all, the money comes out of the consumers.

I do not know whether that matter has been heard or not, but I think it would be very important to give the Federal commission the power and jurisdiction to hear and determine upon labor disputes. I think it would be more satisfactory than boards of mediation and arbitration. I think we should relieve ourselves of some 48 commissions throughout the country, and we ought to put State transportation companies of the whole country under one commission, and we would have uniform action, and the companies would know what they could expect and what they should receive; and I think something should be done to encourage them so that their securities would have value, and that, when possible, they should be enabled to increase their facilities and keep up their rolling stock and keep on hand funds to meet emergencies which may arise.

These are the views I have in mind after studying this matter for several years.

The VICE CHAIRMAN. I have no questions. The statement of the gentleman is very clear and well understood.

Senator CUMMINS. That has opened up an entirely new subject. I would like to ask a question or two, but not in an argumentative way. It seems to be the general opinion among the Members of Congress with whom I am acquainted that the regulation of railway securities should be exclusively in some tribunal created by the Federal Government. The difference of opinion, if there is any—and I think there is—relates to the extent of supervision; and upon that point I want to ask you this: Assuming that we have given to the Interstate Commerce Commission the exclusive regulation of issues of securities, do you believe that the commission ought to pass upon the policy of extensions and betterments which may require the issuance of bonds or stocks?

Mr. GILLETTE. I think so. I think that is one of the very first things the commission should inquire into before it gives its consent—before the issue is permitted.

Senator CUMMINS. Carefully distinguish between the honest expenditure of money and the policy of expending money. You are of the opinion that all the discretion which has hitherto been exercised by the railroad companies with regard to extensions and betterments ought to be withdrawn and reposed in a public body?

Mr. GILLETTE. I think, when they are going to float bonds, Senator, that the public are expected to buy, and they are doing it for a public benefit in the building of public roads, that that is something that the public should inquire into, as to whether there is a necessity for it, or matters of that kind. I think those matters are matters of proper inquiry.

Senator CUMMINS. There is a great difference between determining the amount necessary to accomplish a certain purpose and determining whether the purpose ought to be accomplished at all.

Mr. GILLETTE. That is true, too; and, of course, there is a great deal to it.

Senator CUMMINS. You are of the opinion that whenever any railway company desires to increase its securities in order to extend or better its facilities of transportation, that it ought to go to the Interstate Commerce Commission and have that commission pass upon the propriety or wisdom of the extension or betterment?

Mr. GILLETTE. Well, I think that would be one of the very first questions that the commission would inquire into before they would give their consent to the issuance of bonds. I do not see how they can avoid that.

Senator CUMMINS. But you know, Governor, this very question has been at issue as to whether in regulating securities the functions of the Government should be confined to the honest issuance of securities and the honest expenditure of money for a public purpose or whether it should extend to a veto upon the act or proposal of the railway company in extending its facilities.

Mr. GILLETTE. I think the question of extending the railroads and what it should be in the way of betterment should be left to the railroad itself.

Senator CUMMINS. You have to leave it altogether with the railroads or leave it altogether with the commission.

Mr. GILLETTE. I think that question they would be better able to understand than the commission itself. I was figuring on the amount of money which they would allow and the bond issues, terms, etc., and the expenditure of it. The company can know better than anyone else as to what it needs in improvements and betterments.

Senator CUMMINS. To put a concrete case with which you are familiar in this western country, suppose when the Western Pacific proposed its line from Salt Lake City to the west—I believe it was Salt Lake City—the laws that you have in mind were in existence; would you have the Federal commission say whether the Western Pacific should have been built or would you simply have it say, “If it is built, you may issue certain securities and the proceeds must be devoted to the road”?

Mr. GILLETTE. The last. I would not have a commission undertake to say whether a railroad should undertake to develop a new country or not; but when it comes to the question of carrying out the enterprise and the amount necessary to carry it out and how it can be disposed of, that is a matter for the commission.

Senator CUMMINS. You would leave with the railroad companies the discretion or decision of the question of policy as to whether the road should be built or not?

Mr. GILLETTE. We have to do that.

Senator CUMMINS. And if it decides to build the road, then have the commission see that the money so raised is properly expended?

Mr. GILLETTE. Yes, sir.

Senator CUMMINS. The other point of difference, or one other point of difference, is this: Suppose that a railroad company in some organization, or a combination of railroad companies in an organization, desired to substitute new stock for the outstanding stock or to refund outstanding bonds by the issuance of new bonds; suppose that the securities and stocks of any such company are worth 20 cents on the dollar in the market; do you believe that the company ought to be given the authority to issue in its place new stock the par value of the existing stock?

Mr. GILLETTE. I get your point, but I have never thought out that question. That is a very important question, and I would not want to express an opinion on that without giving it some thought.

Senator CUMMINS. That is one of the most difficult questions in the whole matter.

Mr. GILLETTE. I understand that. I see the difficulty of that and would not want to express an opinion on it without having studied it.

Senator CUMMINS. I believe that is all. I wanted to get your view upon these important questions.

Mr. SIMS. Governor, you are considering with reference to the regulating or controlling by law of the action of private employees of the companies, from the standpoint of private ownership and private employment solely?

Mr. GILLETTE. I do not understand that, Judge.

Mr. SIMS. I have reference to what you suggested with reference to the control of wages.



The VICE CHAIRMAN. Disputes between employees and employers.

Mr. SIMS. You are considering it from the standpoint of the railroad company—a privately owned and privately conducted railroad?

Mr. GILLETTE. Yes, sir; in a public service.

Mr. SIMS. They are both in the public service in a way; that is, they are doing things for the public.

Mr. GILLETTE. They are quasi-public servants.

Mr. SIMS. Well, hotels are doing a public service.

Mr. GILLETTE. Yes, sir.

Mr. SIMS. Do you hold that Congress has the power to say to a private employer that "When you employ your labor at a satisfactory price, that then that labor shall not demand a higher price either as individuals or collectively," and finally, to get it, they must labor for a certain period of time?

Mr. GILLETTE. I did not say that.

Mr. SIMS. How would that prevent strikes?

Mr. GILLETTE. Before these questions eventuate into a strike those questions shall first be submitted or settled before this commission. If the Government owned the railroad itself and was doing Government business, and distributing freight the same as it does the mail, I have no doubt but that Congress could pass a law of that kind. If the Government could do it, being the owner of the property, I do not see why the Government could not do it under the interstate-commerce law, for that is regulating commerce—carrying on commerce—

Mr. SIMS. But the Government can not force a private corporation to perform service at a loss.

Mr. GILLETTE. No, sir; that would be confiscatory.

Mr. SIMS. Can it force an employee to serve a private corporation at a loss?

Mr. GILLETTE. No, sir; but if you could settle this matter before the commission it would probably prevent a great many strikes, but if they could not enforce it, they could go on—

Mr. SIMS. You mean to say they must serve as a matter of law during the time the investigation is being carried on?

Mr. GILLETTE. I think you could have the right to stop organized strikes against the carrying of interstate commerce and against the carrying of the mail. I think you have a right to do that. I look with a great deal of difference on individual strikes and a general strike, where persons undertake through force to stop the business of a carrier.

The VICE CHAIRMAN. We have made that unlawful as far as interstate-commerce trains are concerned.

Mr. SIMS. Labor is the voluntary act of a human being.

Mr. GILLETTE. And he can quit whenever he wants.

Mr. SIMS. You say that for three or four months or a year, or whatever time it is, during the time this matter is being investigated, you would have a criminal statute to the effect that a man must continue in the service of this corporation until the matter is settled before he shall undertake to strike?

Mr. GILLETTE. If you give to the Federal Government the power to settle these matters, they will appeal to the commission 999 times out of 1,000. You talk about compulsory arbitration. That is

done in different countries now. New Zealand has a compulsory arbitration act.

Mr. SIMS. Pending the time, during the investigation, you would make it criminal for the employees of a carrier, either acting as individuals or through concerted action, quitting work, or will you by law compel them to serve or act with their hands or heads?

Mr. GILLETTE. I do not think you can make an individual serve unless he wants to, but I think there is a difference between one man quitting and concerted action. I do not know whether you can do it or not.

Mr. SIMS. That is what I want to know.

Mr. GILLETTE. If it can not be done—I am inclined to think under the interstate-commerce act you can do it—if you find a conspiracy or organized effort extending throughout the country to stop interstate commerce and stop carrying of the mails, it seems to me that there certainly is power in Congress to prevent concerted action, and I say that concerted action——

The VICE CHAIRMAN. I make the point that all experts on the subject of strikes have their habitat around Washington and we have heard them for weeks and months, and we have tons of testimony on the subject, and that if we undertake to go into this matter at this time it will take us weeks and months.

Mr. GILLETTE. I thought that subject was worthy of investigation and worthy of thought.

Mr. SIMS. If you have not thought on it, of course, you are not ready to answer it; but is it not, in substance and fact, involuntary servitude to force an individual to work during a period of time that this investigation might be on, whether he wanted to or not, either by collective or individual action?

Mr. GILLETTE. Well, I do not believe you can make a man act, individually—make him serve.

Mr. SIMS. Then you ought not to penalize him for quitting.

Mr. GILLETTE. No; but I think you can stop a concerted and organized effort. A man can not alone commit a conspiracy to interfere with the Government.

Mr. SIMS. I am not putting it on the ground of interfering with somebody else's rights, but his right to receive a reasonable compensation for his personal labor and effort. I do not care about pushing the matter, but it comes up as a part of the subject we are investigating.

Mr. GILLETTE. That is one of the subjects to be considered.

Mr. SIMS. I do not think it is settled. The subject of compulsory arbitration in this country is talked of occasionally. One of the questions which I think is important is the question of strikes.

Mr. GILLETTE. Can the Government, under public ownership, compel a man to work for the Government unless he wants, in moving freight?

Mr. SIMS. In other words, doing simply civil business?

Mr. GILLETTE. Can the Government do it?

Mr. SIMS. Yes; I should say so; I think it can as a military necessity.

Mr. GILLETTE. I think the Government can do it under the authority to regulate commerce.

The VICE CHAIRMAN. For your further entertainment on that subject, I would refer you to some hearings we have held on this subject where, in the hearings, Judge Sims and Mr. Gompers spent two weeks illuminating the country on that subject.

Mr. GILLETTE. Do you think, Judge, that a man could prevent the Government from moving the mails?

The CHAIRMAN. You distinguish between the right of the individual to quit employment and his right to associate with others with a view to paralyzing commerce between the States?

Mr. GILLETTE. I think the Government has the power to protect this great Nation, and I believe if a body of men get together and organize for the purpose of paralyzing this great Government they are amenable under the law for trying to stop commerce. You can arrest a man for undertaking to stop the carrying of the mails.

The VICE CHAIRMAN. There has been for years a statute making it unlawful for anybody, by violence or threats, to obstruct mail trains, and the President has been authorized to use the armed forces of the United States to prevent that. Recently these five men on this committee have been instrumental in extending that power to commerce during the war. If it works out all right it may be a good beginning toward having it apply all the time. The President has that power, I think, without the statute.

Mr. GILLETTE. If you can stop a man from obstructing supplies from going to a State that needs them——

The VICE CHAIRMAN. I move that this point be reserved for future consideration.

Senator CUMMINS. Since it has been under consideration for the last 5 to 10 minutes, how can you reserve it?

Mr. ESCH. Did the law which was enacted in this State while you were governor, creating a commission with certain powers with reference to the railroads, give the commission the power to issue what is known as a certificate of convenience and necessity for new constructions, extensions, etc.?

Mr. GILLETTE. I do not recall that.

Mr. ESCH. The State has that power now?

Mr. GILLETTE. It was greatly enlarged. The constitution was amended, and public utilities of all kinds were brought in, and it was improved in many ways.

Mr. ESCH. I understand your commission has the right to visé applications for extension or new construction?

Mr. GILLETTE. Yes, sir.

Mr. ESCH. Wisconsin has the same law; New York has the same, and Massachusetts and quite a number of States.

Mr. THOM. I understand California has not that authority with reference to railroads.

Mr. GILLETTE. They have it as to public utilities. They can prevent one utility from invading a territory occupied by another.

Mr. ESCH. In answer to the suppositious case presented to you by Senator Cummins you stated you thought the initiative in reference to construction should be left with the carrier. From that I infer you would not believe it would be wise to give the Federal commission that control?

Mr. GILLETTE. I would not; no.



Mr. ESCH. Now, another question with reference to stock and bond issues: Do you think if we gave the Federal commission the power to regulate stock and bond issues of common carriers that the issuance of a certificate or a permit to a common carrier to float a large bond issue or make a large issue of new stock would, in a way, place the commission in the attitude of confirming prior issues—not in a legal sense, but would it in a moral sense be giving the stamp of approval of the Government as to stocks and bonds of that character?

Mr. GILLETTE. I do not know as I can answer that. Those would be in existence already. What they would be interested in would be new issues of stocks and bonds.

Mr. ESCH. But other people would be affected, would they not, by the prior issues of stocks?

Mr. GILLETTE. That is something that the Interstate Commerce Commission should take into consideration.

Mr. ESCH. It is a question that has given the House and Senate great concern.

### STATEMENT OF ROBERT NEWTON LYNCH.

Mr. LYNCH. I am vice president and manager of the San Francisco Chamber of Commerce. I am executive officer of the San Francisco Chamber of Commerce.

The views of the San Francisco Chamber of Commerce have been very adequately and lucidly stated by Mr. Seth Mann, our traffic attorney and manager. My only purpose in coming before the committee is to present to the committee the possibly wider views of the chamber of commerce upon matters upon which we have taken action. The San Francisco Chamber of Commerce represents some 6,000 business houses of San Francisco, and we had, recently, occasion to vote affirmatively on the four propositions which were submitted by the United States Chamber of Commerce, with which the committee is familiar. The particular point to which I have reference, after saying we have yielded our minds fully to the question of Federal regulation of securities and the Federal regulation of railroads engaged in interstate business, is the assumption of the power to regulate all rates that affected interstate traffic. That question has been a matter of some debate for many years, and finally we have come to the full conviction that it were better for the carriers and for the public and for the shippers that this power shall be fully assumed by the Interstate Commerce Commission. We have taken this position notwithstanding the fact that we have the very highest respect and regard for the California State Commission, which has given us an unusual facility for the hearing of various local complaints, and for the character and ability of which we have the fullest confidence. We cordially recognize that other States may not have such good commissions, and that we may not always enjoy the present standard of railroad regulation within the State.

We also believe that the dualism or dual control in the matters referred to in the referendum is very hateful and bewildering, and while we have many local interests which may possibly not be affected or facilitated so much under Government control, we believe that our larger interests are conserved by the efficiency and prosperity of the

carriers in which we have a mutual interest as shippers, as well as the public.

The statements made by Mr. Mann upon the various questions brought up, I can assure the committee fully represent the sentiment of the members of the San Francisco Chamber of Commerce, and if there is any question as to the representative character of the San Francisco Chamber on any matter as to how we have reached these policies, that is available to the committee. I must personally disclaim any technical traffic knowledge and only speak in regard to the question of the policies that we have reached in connection with these matters.

Senator CUMMINS. Just for the sake of clarity, I desire to state my understanding of the present functions or powers of the Interstate Commerce Commission. Every State rate which does affect interstate rates, and which is either discriminatory or unjust or unreasonable is already condemned by the interstate commerce law. Do you so understand it?

Mr. LYNCH. Yes, sir; except that there are many strictly State rates which are bound to have some influence on interstate commerce which are not controlled by the Interstate Commerce Commission.

Senator CUMMINS. Would you suggest—and I take it the action of your chamber of commerce has that in mind—that we amend the law so as to give the Interstate Commerce Commission the authority not only to condemn a State rate which is in conflict with the interstate rates, or which does affect interstate rates, but to substitute a new rate for the future which shall not or will not affect improperly an interstate rate?

Mr. LYNCH. Our action, as I understand it, Senator, would practically take the entire rate-making power out of the hands of the State commission and put it into the hands of the Interstate Commerce Commission on all roads that are in interstate commerce or affect interstate commerce.

Senator CUMMINS. That is a very broad general proposition, and I only called your attention to the point in which I think the power of the Interstate Commerce Commission is lacking. I think it has power now to condemn any State rate which is so connected with the interstate rates that it becomes interstate in character. That is all.

#### STATEMENT OF ISADORE JACOBS.

Mr. JACOBS. I am president of the California Canneries Co.

The situation as to rates, having had considerable to do with the previous organization in this State, before the Interstate Commerce Commission was established, was such as that Judge Adamson said, in 1904, an effort was made to put steamers on the Pacific so as to connect up with the railroad on the Isthmus of Panama, which was controlled by the Government, with the Atlantic steamship companies. The reason was that we could not get adequate steamship service here, although we had steamers on the Pacific.

Before the Interstate Commerce Commission was established the transcontinental railroads had an agreement with the Pacific Mail Steamship Co. whereby they received a subsidy of \$75,000 a month or \$900,000 a year, which it was afterwards developed was for the

purpose of neutralizing water competition. After the Interstate Commerce Commission was organized that was broken up, but we did not have water competition although we had steamers.

President Roosevelt appointed, through Secretary of War Taft, Mr. Bristow to come out and investigate the whole subject matter. He came out and held his investigation through the chamber of commerce, and a great deal of testimony was developed at that time showing the actual conditions, and that actual competition was not in effect. The purpose of the Interstate Commerce Commission was, of course, to stop the rebate system which had been going on before and to prevent discriminations and to stabilize rates.

A great deal has been said here during the limited time I have been in attendance on the hearings about the long-and-short-haul clause. As a business man here I have endeavored always to take a broad view of things, and I want to say that I think the intermountain countries are taking a very narrow view of the situation, just as we hear in Congress it is reported that some Congressman has held up the merchant marine because the steamers did not reach their section. We have heard it reported that that is the case.

Now, the development of industries and the development of trade comes from large communities, and large communities are on the sea, whether on the ocean or navigable inland waters; and that is not so in this country alone, but in Europe, and I have been abroad every year except last year. While I do not know much about systems of rates, and all that, I know that in England at points like Portsmouth and Liverpool, wherever the water is, they have zones where the railroad carriers make better rates than otherwise. That is done because of trade conditions. Instead of the rates being based on the reasonableness of the charge, and all that, they are based on the proposition of moving the largest volume of traffic, and the traffic that will do the most good to the largest number of people, and you can not do away with water competition whether it is on the ocean or on the inland rivers that are subject to navigation. It is for that reason that we want to develop in this country to-day our inland waterways, because they give better facilities to the people in moving their products to different sections, and it is the movement of those products that makes for prosperity.

We have been very large shippers by water. The war did not force the boats out of the Panama Canal. They were forced out of the Panama Canal before the war started by the slides that you gentlemen remember, and the result was that steamers could not run through there, and they got very remunerative traffic and went elsewhere. The American-Hawaiian Co. started before the war started, and then the war came on and created an entirely different situation—

THE VICE CHAIRMAN. Did not the slides develop before the war started?

MR. JACOBS. Yes, sir; and then they turned right into that business—they found more remunerative traffic and got into that. There are rates here between New York and San Francisco, and there has been some competition by water. The German steamers seized by the United States Government have, within the last four months, taken an enormous traffic, every one being loaded to the guards with California products. If it had not been for those steamers I do not



know what would have become of the movement of our products in California, because the entire railroad organization seems to have broken down, probably because the war had a great deal to do with it.

But aside from that, you will remember that Mr. Lane said, when he was on the Interstate Commerce Commission, that it would take billions of dollars of new equipment to supply the railroads with enough to cope with the enormous increase of trade in this country that is being developed now. We are in the war, and if the war continues some time—it has got to continue until this country wins—if it continues some time, I do not know what will happen unless the Government steps in and does something. I believe the Government will have to take control of the railroads doing a through business, at least during the period of the war. It is not alone a shortage of cars; there seems to be an entire congestion on the railroads throughout the country. There are to-day probably 250,000 tons of stuff in California that can not be moved. We put in orders for cars and have to wait six or eight weeks to get the orders filled, and we have traffic tied up for cars, and it takes weeks and weeks to cover just the distance of a hundred miles or so. From our place to a town a distance of about 25 or 30 miles we have had cars missing for three weeks. The railroads seem to have broken down and business is in a terrible condition. Not only the manufacturers but the producers feel this. They can not get their stuff moved. Much of the stuff that should be moved in September and October will not get to the markets until as late as March. The question is, what is the remedy?

The CHAIRMAN. Do you think that the question of congestion of traffic has much to do with the high prices that prevail?

Mr. JACOBS. I think it has something to do with it.

The CHAIRMAN. The tendency is to increase the cost of living, is it not?

Mr. JACOBS. Yes, sir; and if the Government had not stepped in and put in those steamers and moved those products prices would have been still higher.

The VICE CHAIRMAN. I know a farmer who had a million bushels of wheat, which was bringing a dollar a bushel, and he could not get them moved until they went to \$2.50 a bushel, and he had to sell them for that price.

Mr. JACOBS. The trouble is the enormous number of cars tied up at different points.

The VICE CHAIRMAN. Are you aware of the fact that by reason of war legislation we have arranged to mobilize everything for war purposes, and the administration has authority to cooperate with the railroad committee that is giving direction as to things that shall be shipped first, and the question of the distribution of cars, and that the advice has gone forth that the management of the railroads for war purposes is most efficient and it is the wonder of the world?

Mr. JACOBS. It has not worked out here yet.

The VICE CHAIRMAN. You must take into account the difference between war and peace conditions. We are engaged in whipping Germany now. We expect to turn these things back into private channels after peace has come.

Mr. JACOBS. Yesterday the Quartermaster General was over to our place and promised to get busy and see if he could not get the cars

that are necessary to move this stuff. He advised the railroads that it was for Government purposes.

The VICE CHAIRMAN. If you will send a telegram to your great judge (Judge Lovett)—he is the highest authority in Washington on these matters—he will give you relief in two days.

Mr. JACOBS. I communicated with Mr. Richardson, who is in charge of that work in Washington. I think that situation will be relieved, so far as the Government is concerned. This Government business has to take precedence over everything else.

The VICE CHAIRMAN. We will all have to submit to the war situation and stop some of our activities until we have whipped Germany.

Mr. JACOBS. The stuff has to be moved from the producing sections to reach the masses of the people; otherwise you will be confronted with the situation that exists in some sections, where they have no sugar, for instance, and yet in certain sections they have sugar but can not get cars to handle it. In the city of Boston no one can get more than 2 pounds of sugar at one time. If the producers and manufacturers can not move their goods to the consuming sections of the country it is going to have a great deal to do with relieving the situation which the Government is trying to handle on the question of the high cost of living.

The VICE CHAIRMAN. If we had not declared war in April you would not have had any trouble about cars, for about that time the railroads created an organization to take care of cars. The railroads have agreed on that themselves, and so, when the war ends, you will find relief.

Mr. JACOBS. I think the statement that Mr. Lane has made with reference to the question of equipment is a question that has to be considered outside of war conditions.

The VICE CHAIRMAN. That is what I am telling you.

Mr. JACOBS. The question has to be considered in view of all the conditions, whether the situation is going to be better. I do not think it is. I know that thousands of cars are tied up at every terminal point in this State.

The VICE CHAIRMAN. There is war now.

Mr. JACOBS. I do not think the war, except possibly in the matter of the shortage in some employees who have been drafted, has affected them much. The question is, after the war is over, what will happen; after the war is over, with a victory, we are going to have five years of great prosperity; it will take over five years to replenish the stocks of Europe, and the question is, can the railroads take care of everything unless the Government takes hold of the general situation and looks ahead to see what is going to happen after the war is over? It is a question that has to be considered.

Mr. Lane has made a statement about the billions of dollars it is going to take to equip the railroads. Are the railroads going to be in a position to equip as they should? We hear statements that they can not sell their bonds and stocks, but at the same time no investor will have confidence in railroad securities and bonds when the presidents of the railroads themselves are giving out pessimistic utterances as to the future. Who will invest in those securities when the presidents are looking ahead and telling of the terrible situation they are confronted with and are pessimistic about their own securi-

ties? I have not given sufficient study to the situation, but I think something ought to be done by the United States Government toward exercising greater control over the railroads. I am speaking of normal times, and not war times, because I think the Government will have to take over the control of railroads if the war continues. In normal times what will happen? The Government will have to take over the railroads and have absolute Government ownership or take over their railroads under private operation with Government control, or take over the roads and guarantee to the stockholders and bondholders their investments on a reasonable basis. There has got to be something done, and there is no question about it, and I think that is a great deal more serious now than the consideration of the long-and-short-haul clause, which I think is a matter that will adjust itself.

The CHAIRMAN. In your view, are the railroad corporations doing all that they can do now to meet the requirements of traffic and to prevent this congestion?

Mr. JACOBS. I think they are. The officials that I have been to—we have had terrible times this summer—the officials I have been to, and the subordinates, manifest every desire to do everything they can to relieve the situation, but they admit they can not. We spot cars down the yard here that we have been waiting for for weeks. They say, “We will put them on your switch to-night,” and they will be lost during the night and be missing for three or four weeks. Whether it is due to not having sufficient people to handle the traffic or not I do not know.

The CHAIRMAN. Do you think that is due to lack of sufficient equipment or inefficiency in the administration of the present equipment by the railroads?

Mr. JACOBS. I think both.

The CHAIRMAN. You think, then, that the present equipment must be made more efficient in traffic than it is being made?

Mr. JACOBS. I think so.

The VICE CHAIRMAN. In that connection I want to state, if you will permit me, that a great railroad president, the president of one of the greatest railroad systems in this country, told me the greatest trouble he had experienced was in securing common labor; that that labor was not available, and that they needed 5,000 common laborers and could not secure them.

Mr. JACOBS. Of course, that labor situation is a very serious one, and there is no doubt about that.

The CHAIRMAN. Do you think that the present condition is due wholly to any inefficiency in the administration of the railroads themselves?

Mr. JACOBS. No, sir; I do not.

The CHAIRMAN. Then what would you do in order to make the railway systems of the country efficient in this field, which lies now outside of the present ability of the railroads to meet the situation?

Mr. JACOBS. My own individual opinion is that either, as I said before, the Government will have to take absolute ownership of the railroads, or arrange a great credit for them in some way, and lend them a billion or two billion dollars to properly equip their railroads, and at the same time increase their control over the railroads and the issues of securities; and I think that will have to be done soon.



The CHAIRMAN. You think they should have a billion or two billion dollars now in order to meet their requirements?

Mr. JACOBS. Yes, sir.

The CHAIRMAN. And that is entirely outside of improving the existing efficiency of the railroads?

Mr. JACOBS. Yes, sir; we find car after car rolling into our place that are sent down. They are broken and have to be sent to the repair shops, and it takes them a long time to do that. Probably the shortage of labor has something to do with that, but the cars will only stand so much. I believe that the equipment of the railroads has been allowed, in recent years, to run down, and there is only one way that that can be remedied, and that is to increase the investment in order to increase that equipment.

The CHAIRMAN. You think that justifies the exercise of authority on the part of the Government in increasing the credit of the railroads in such a way as to command that money immediately?

Mr. JACOBS. Yes, sir.

The CHAIRMAN. You think that the present conditions tend largely to increase the cost of living, and also the cost of the war, as I understand you?

Mr. JACOBS. Yes, sir.

The CHAIRMAN. So, as a matter of economic administration of the war itself, and having that alone in view, you would regard favorably some action that would give the railroad companies such credit as to enable them to raise now a billion or two billion dollars?

Mr. JACOBS. Yes, sir.

The CHAIRMAN. You think that that work can not be postponed until the end of the war?

Mr. JACOBS. I certainly think it should be attended to as quickly as possible.

The CHAIRMAN. Immediately, and as part of the war expense?

Mr. JACOBS. Yes, sir.

The CHAIRMAN. You would have the double purpose of diminishing the cost of the war and also diminishing the high cost of living, which is an obstruction to the able prosecution of the war?

Mr. JACOBS. Yes, sir.

Mr. SIMS. I should like to ask one question: Would it not, at this time, while war prices of materials are at hand, cost the railroads a great deal more than normally to double-track or increase their equipment?

Mr. JACOBS. Would it not cost a great deal more?

Mr. SIMS. Yes.

Mr. JACOBS. If the Government will take charge of that and regulate it, I think the Government can regulate the cost of steel. They have done that recently. They can regulate all of it. The Government can regulate all of us during the war, and I think it is entirely in the hands of the Government to take charge of that matter, and taking everything into consideration I assume that they would treat the railroads fairly and doubtless the Government would consider the responsibility of keeping the channels of trade open—

Mr. SIMS. The Government may reduce the price of steel below the price quoted by the private contractors, to the price fixed by the Government. Now, with reference to products used in the build-

ing of tracks, etc., would it not cost the railroads just about double, or more than double, to increase their trackage and terminals, and their cars, as long as the war continues, as compared with what it will after the war?

Mr. JACOBS. I do not know what the percentage of increase has been since the war started, but I think for five years after the war stops, that we will be confronted with such a demand for products of all kinds that I do not believe the prices will get back to the prices before the war because of the increased cost of labor and other conditions.

Mr. SIMS. A railroad is not a temporary proposition. If you build railroads now at a cost that it would require to build them, and you increase the capitalization to the extent of the money put into them, you would have a permanent burden upon the commerce of the country for all time to come, would you not?

Mr. JACOBS. I think we should take the present roads and put them on an efficient basis.

Mr. SIMS. If you build two tracks where there is only one now, that is building new railroads. If you build a terminal or put money into anything that the railroads need, it is a permanent investment of money; so, is there not some difficulty in deciding just what to do?

Mr. JACOBS. The whole thing is a problem and a very serious one.

Mr. SIMS. The railroads, before we got into the war, came before Congress with a suggestion of their own, based upon the general facts that railroad credits were not sufficient to command the capital they needed, and economies must be effected and adverse and injurious regulation must be reduced, in order to get capital in normal times sufficient to develop their systems in normal times. Suppose they had to put this capital into double-tracking at a time when one dollar only goes as far as 50 cents went before? Would you not be putting an undue burden on the commerce of the future that is unreasonable?

Mr. JACOBS. There is no question that all investments put burdens on the commerce of the future, but we get two things that are necessary, that compensate for that—the service that is necessary and the ability to handle the traffic.

Mr. SIMS. At the present time, when every government is borrowing money and our Government is borrowing it, do you not think it would be good business for the Government to take temporary possession of the railroads and operate them temporarily, and not undertake to force the railroads to almost double their investments when an investment will be worth only 50 cents on the dollar, measured by permanent conditions?

Mr. JACOBS. I say it is my opinion that the Government must absolutely take over the railroads and operate them during the period of the war, and thereafter this other subject must be handled. That is something that must be submitted to by every man.

Mr. SIMS. I think you are a very competent man to express a valuable opinion from a practical viewpoint, and I do not see how we can get out of the situation in any way we take it without imposing on the future the burdens that are involved in this present situation. Unless somebody takes hold of this matter and handles it—

Mr. JACOBS. We have to consider the interests of the whole country and do what is best for them.

The CHAIRMAN. I regret to advise you your time has expired.

Mr. JACOBS. I will cease.

Mr. ESCH. I notice President Thelen, of the California Railroad Commission, is here, and I would like to request him to file as a part of his hearings the resolutions adopted last month by the State railroad commissioners. Some of those resolutions have a bearing upon the propositions we are considering, and I should like to have them made a part of this hearing.

Mr. THELEN. I shall be glad to do that.

(NOTE.—Printed on p. 1925.)

### STATEMENT OF JAMES A. KELLER.

Mr. KELLER. My name is James A. Keller, and I represent the Pacific Portland Cement Co. and Baker & Hamilton (Inc.), two California corporations. We produce for the carriers in the shape of revenue practically \$1,000,000 a year: 75 per cent of that is produced locally in the territory of Nevada, Arizona, California, and Oregon. We are very much interested in the present fourth section of the act to regulate commerce and should like to see it continued in its present form, and I am going to give a few illustrations showing how the present section is a benefit to us and also a benefit to a lot of other industries in the West in addition to the transcontinental movement.

The Pacific Portland Cement Co. is a corporation incorporated for \$6,000,000. We operate a cement plant at Cement, Cal., 54 miles from San Francisco. We operate a plaster factory at Mound House, Nev., which is 254 miles from San Francisco. We ship from Mound House practically 60,000 tons of plaster annually.

Our competition in the movement of this plaster is from mills located in Oregon, Washington, and in southeastern Nevada. The rates from Mound House, Nev., to San Francisco, Cal., on plaster as established by the railroad companies is about \$3 per ton, and this rate graduates or advances as the distance decreases or increases.

There is a considerable movement of plaster beyond the port of San Francisco to the port of Portland or Tacoma or San Pedro that moves locally up and down the coast. Competitive plants which are located similar, but greater distances—and most all of them have a disadvantage of being located only on one railroad—have a rate to the ports of \$2 a ton. The water rates to San Pedro and other Pacific ports all along the coast are practically the same. Therefore, for the Pacific Portland Cement Co. to compete it is necessary for us to secure a rate from the rail carriers that will enable us to meet competition, and the Southern Pacific Co. published for our account a rate from Mound House, Nev., on the minimum-weight car of \$2 a ton. This enables us to partially meet competition. With this rate we are enabled to move from the port of San Francisco practically 10,000 tons of plaster per month. Without the rate it would force us out of the business entirely. We employ at Mound House, Nev., 100 men and handle from \$175,000 to \$200,000 of business a year. This rate to San Francisco is a violation of the fourth section, the present fourth section, and I am sure, enabling us to



make this 10,000 tons, it helps in a measure in the growth and up-building of the State of Nevada. We have the matter up with the Southern Pacific Co. now for a rate on plaster from Mound House, Nev., to Portland, Oreg. The rates have been adjusted on an apparently fair basis from Mound House to the intermediate points. We move some plaster south of Portland and move plaster to northern California. The rate from Mound House to Sacramento is \$2.70 a ton and graduates up to Portland to \$5.50 a ton. The rates to intermediate points in Oregon are \$5 per ton.

In meeting competition at Portland we find there are plaster factories located at Hanover, and also a plaster factory at Gypsum, Oreg. The Hanover inland rate to Portland is practically \$4 a ton; the Gypsum inland rate to Portland, Oreg., is \$2 a ton, and to intermediate points between Gypsum and Portland the rate is \$2. There is a consumption of plaster in the particular vicinity of Portland, within a radius of 50 or 60 miles, of practically 50,000 tons annually. I said to the Southern Pacific if they put on a rate of \$3.50 or \$3.75 or a rate in that vicinity, it would enable us to take a considerable portion or some of that business. There is a coast movement out of Oregon southbound of 32,000 cars of lumber per annum, and there is about 16,000 loads that move into this country, and therefore the Southern Pacific, to handle this lumber tonnage out, must, of necessity haul 16,000 empty cars into this territory as far north as Portland. By granting us a rate that will enable us to meet this competition it also provides a revenue of \$200 a car and would help utilize the empty-car equipment which moves by our place into Oregon. This rate would not be a discrimination whatsoever against the interior points in Oregon, and it certainly would be of considerable assistance to the State of Nevada if we could secure a portion of that business.

Our cement plant is located at Cement, Cal., and the rates to points where there is a large movement of cement now moved under a similar fourth section in California. For example, the California Railroad Commission have established, or recommended about three years ago, rates to the California carriers on cement from the cement mills located tributary to San Francisco Bay and in the San Joaquin Valley and beyond—the rate, for illustration, from our mills to Bakersfield is \$3.60 a ton, and the rate from our mill to Mojave is \$5 a ton. Our rate to Los Angeles, practically 180 miles from Bakersfield, is \$3.10 per ton. That rate was published to meet water competition from our mill to San Francisco Bay, plus the water transportation charge from San Francisco Bay to San Pedro. By the publication of that rate all rail to meet the water competition it gives us two methods of hauling that cement. It gives us the water rate and the rail, and there has not been to my knowledge—and I have been connected with the Baker & Hamilton concern for 10 years and with the cement company 10 years—we have never heard of any complaint of a single merchant located in the San Joaquin Valley that there would be a discrimination on account of Los Angeles enjoying a lower rate than they did. We move cement from Cement, Cal., to Portland, Oreg. The rates to Portland via rail are \$4 a ton. The rate to the intermediate points is \$4.50 a ton, and that rate grades down from Eugene to Sacramento at \$1 a ton. That enables

the railroads to take the tonnage from the water carriers, and also enables us to have two avenues of transportation.

On the Northwestern Pacific Railroad a road runs from San Francisco to Willits, and four or five years ago the Southern Pacific and the Santa Fe jointly extended a line to Eureka, with a view to moving lumber out of northwestern California. The traffic manager of this railroad wanted to know if he could not get some cement tonnage, and after considering the matter for a long while he fixed a rate from our mill to Eureka of \$3 a ton and rates from the intermediate points, grading down from \$4.70 to \$1.25. By the granting of that rate to Eureka it does not affect the merchants or distributors or jobbers or consumers at the intermediate points. They always had a rate that would move the traffic—a fair rate—and it has enabled this railroad company that we are interested in, that is developing the interior country (and we hope they will continue on further) on some empty cars that the Southern Pacific and Santa Fe have to haul down into this territory, to pick up approximately \$150 a car revenue, which they would not get otherwise, and there are other illustrations.

Our rates from San Francisco to Sacramento are lower than to the intermediate points; in fact, our whole rate fabric in California and on the coast, both interstate and State, is such that you will find that the rate to the distant point where rail competition and water competition is to be found is lower than to the intermediate points, and, to my knowledge, from approximately 20 years' experience, I have never heard any complaints as to this theory of rate making.

Baker & Hamilton were incorporated in 1852. They are a \$2,000,000 concern, and they are engaged largely in distributing the commodities that are brought from the southeastern part of the United States to San Francisco and are distributed back. We handle commodities, such as agricultural implements, hardware, and iron and steel articles. We have at the present time in the neighborhood of 350 employees. We have a pay roll here of approximately half a million dollars per annum. The old man who started this business—for 17 years, from 1852 to 1869, every pound of freight that was brought from the Atlantic coast to points west of the Atlantic coast was brought to New York and put on sailing vessels and brought around to San Francisco and thence up the river to Sacramento; and when the Southern Pacific Railroad was constructed, from the reports of the old gentleman who incorporated this business, it was not with the idea of a transcontinental railroad, but to get that tonnage that was moving west of the Sierra Nevada Mountains and moving out to the mines, etc., with a view to getting the haul from Sacramento to these points; but the railroads, with a view or idea of securing Government subsidies, continued that railroad on to Ogden, Utah, and the old-timers who put their money into the Southern Pacific did it with a view of encouraging the movement of tonnage from San Francisco to Sacramento.

We handled during the year 1915, westbound, approximately 20,000 tons of freight. Of that 20,000 tons of freight 7,000 tons moved via the Panama Canal. That tonnage consisted of all classes and kinds of commodities, such as agricultural implements, iron and steel articles, machinery, bicycles, etc., and it moved very largely

from Cincinnati, Detroit, Cleveland, and Pittsburgh, and points east. For over 50 years the rates to this country have been based on water competition. The rate has been lower to San Francisco than it has been to the intermediate points, and our money has been invested and our business built up under that theory or scheme of rate making; and I do not think it is quite fair for the Interstate Commerce Commission, with one swoop of the pen, to wipe out this system and put business in a very chaotic state.

At the present time we should be making our prices on agricultural implements for spring delivery. The present rate from the Atlantic seaboard is \$1.25, and the proposed rate of the carriers is \$1.60. There is a spread of 35 cents, or \$7 a ton, or \$200 a car. We do not know how to make our prices, because we do not know how the thing is to be decided. It is our opinion, without getting into the legal end of it, that inasmuch as the present fourth section provides that where a carrier makes a rate to meet water competition that it should not be increased unless the water competition is removed; that it is unfair for the commission to change the conditions at this time. The law does not provide for it; and if it is changed it is not going to do Reno, Nev., any good, nor Elko, Nev., any good, as the secretary of the Commercial Club of Reno stated.

The business to Nevada is going to move from San Francisco, Sacramento, Stockton, or Chicago, St. Louis, or other eastern points. To make a large jobbing point you have to have a large population around you. The entire State of Nevada has only a population of 100,000. The largest town is Reno, and it has a population of 15,000 people, and there is not enough consumption in the city of Reno to make a jobbing center. Temporarily, through this readjustment of rates proposed by the Interstate Commerce Commission and advocated by the railroad commission of Nevada and other intermountain points, you will just take the business away from us and give it to the other end of the country. Now, we are not going to lose the business, but we are going to hold onto all we can possibly, but so far as the concern I am connected with is concerned, it is going to cost us business if this decision sticks, to the extent of approximately \$250,000 a year.

There is probably consumed in Nevada now, of all classes of jobbing articles, \$10,000,000 a year. For that short period you are going to move this tonnage from San Francisco and Sacramento to Chicago and St. Louis and other points east.

As I stated, I do not want to go into the legal situation. Mr. Mann and Mr. Gregson and Mr. Bradley explained the matter very fully, and I think, under the present fourth section the Interstate Commerce Commission has not got any authority to suggest to these carriers that they either raise or reduce their rates. The law says that no change in the rates shall be made unless the water competition is removed. Our friends from the interior come and say, "There is no water competition now. You had better raise the rates." We had the same situation in reference to the export situation and you never heard San Francisco or New York or Boston people make a complaint. The rates on export traffic to foreign countries are lower than to San Francisco. We do not object.

When the war is over, regardless of what you do with our local rates, you will have to encourage the development of commerce.



This country has loaned France and England and Italy several hundreds of millions of dollars. They are not going to pay that back in money, but in goods, and we are going to find ourselves confronted with the situation of these people in Buffalo and Cleveland and other places moving their stuff through to the Pacific coast in competition with other commodities that come from Europe through the Panama Canal.

Mr. BRADLEY. May I ask if you will kindly ask the witness this question, whether or not the \$250,000 which he states will be added to the cost of their goods--Baker & Hamilton--whether or not that \$250,000 or any part of it will be saved to the consumer of those goods in Nevada?

The CHAIRMAN. You may answer that.

Mr. KELLER. No, sir; not one penny of that.

Mr. ESCH. You stated that the export rates from Cincinnati and Chicago and Cleveland to the Orient, passing through the intermountain country and out of your Pacific coast terminals, are equal to or less than the rates from these points of production to the Pacific coast terminals.

Mr. KELLER. Yes, sir; less.

Mr. ESCH. And you do not make any complaint?

Mr. KELLER. No, sir.

Mr. ESCH. Is it true that the import rates from Europe, or possibly the Orient, to the United States and into your ports are less than the rail rates from the Pacific or Atlantic terminals to the interior points?

Mr. KELLER. I think in some cases; yes, sir.

Mr. ESCH. Do you know of any complaint as to that?

Mr. KELLER. I have never heard of any here locally.

Mr. ESCH. Suppose a Japanese manufacturer of articles similar to your own could get rates across the Pacific through San Francisco to Reno at a rate less than the rate on that product from San Francisco to Reno, would you object?

Mr. KELLER. Of course, you understand that the commodities which Baker & Hamilton handle are all commodities that are manufactured in the Middle West or far East, and they are hauled out to San Francisco—and ours is typical of other concerns—and they are shipped back.

Mr. ESCH. There is quite a lot of objection on the part of the manufacturers in the central part of the United States against that practice, because it makes a very severe competition to them, and they further complain that the labor and the prices paid to the foreign labor are such that it results in robbing the American labor. You would not advocate that policy, would you?

Mr. KELLER. I will try to answer your question in this way: I think you will find that your manufacturers in the Central States, or in the Middle West, will use that very argument to the carriers for them to put in a rate into San Francisco so they can meet the competition of Europe on the cheap commodities that might come in from Europe.

Mr. ESCH. That is particularly true in reference to crockery, and our Ohio manufacturers have bitterly complained because the foreign manufacturers can get into their markets because of the low rate

which covers also the rail haul from the Atlantic ports to the interior points.

Mr. KELLER. Crockery was mentioned by some one the other day as being not subject to water competition. That is one of the items that always moves by water. Crockery has to pay a charge from the Atlantic or other ports and another charge from the Atlantic ports to the Ohio points, or wherever it is. I think if crockery was manufactured at Milwaukee, for example, that if the matter was presented to the lines properly that they would publish a rate for to meet that competition in some way or other.

Mr. ESCH. I understood that question was presented to the Interstate Commerce Commission, and they denied that they had jurisdiction under the act.

Mr. KELLER. What I mean is, you have a rate—I believe the normal rate before the war was \$5, \$6, or \$7 a ton—now, you have a rate from New York of \$6 and another rate of \$6 by water, and that is \$12 a ton.

The VICE CHAIRMAN. The commission does have jurisdiction of the land part of the rate now.

Mr. KELLER. I think if this matter were presented to the carriers properly the railroads would put in a rate to meet that water competition.

The VICE CHAIRMAN. I move that when the committee has concluded its executive business, of which you have given notice, Mr. Chairman, that the committee adjourn to meet in Washington subject to the call of the chairman.

The CHAIRMAN. I suggest you leave that for the executive session.

Before closing the hearing I wish, on behalf of the committee, to express its obligations to you gentlemen who have appeared before us for the very interesting and valuable information you have given.

Mr. MANN. I understand that I voice the sentiment of all concerned in stating that we have a feeling of great gratification that the committee has seen fit to hold a hearing in San Francisco and desires to express our thanks in that regard and also our great gratification for the courtesy that the committee has shown.

The CHAIRMAN. The committee will now go into executive session.

(Whereupon the committee went into executive session, at the conclusion of which an adjournment was taken to meet in Washington subject to the call of the chairman.)

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NOVEMBER 10, 1917.

#### STATEMENT OF W. C. ADAMSON, VICE CHAIRMAN AND MEMBER OF THE JOINT SUBCOMMITTEE.

Mr. ADAMSON. Mr. Chairman and associate members of the joint subcommittee, inasmuch as I am to sever my connection with the committee and not be present to join in a report, I shall embrace the opportunity afforded by the committee to express a few of my impressions.

It is obvious to me from the investigations held in San Francisco and general conditions that during the war it is not practicable to

give satisfactory consideration to the subjects before the committee, much less to make a final report. The public attention is so engrossed in subjects connected with the war as to be reflected in the testimony of every witness. Naturally, witnesses are considering war conditions, and when we try to consider permanent peace practices and regulations the tendency is to try to apply to them the same treatment that is appropriate to war conditions, which is a mistake.

The truth is, all consideration should be given now to war conditions until we win the war, which we must and shall win sooner or later at all hazards regardless of cost. Until that is done all other considerations must be subordinated and all plans and arrangements for peace conditions, such as conducting business in time of peace and the securing of prosperity through private and public enterprise, must be postponed until that period arrives. The mischief of confounding plans for operation in time of peace with war conditions is that diametrically opposite conditions require entirely different treatment. In time of war we need centralization and consolidation, national mobilization of all instrumentalities and all lines of business, and individual enterprise must submit to such conditions of regulation and control as will support war purposes, whereas in time of peace we need general diversification and dissemination of enterprise and energy so as to enliven every portion of the country, stimulate every avenue of business and production and distribution through individual and local enterprise under local control, which make the ideal conditions of peace.

We have already provided for the mobilization of our industries and resources during the war with a dispatch and efficiency unrivaled by any democracy, if not unrivaled in history, and this in spite of the fact that pessimists have prophesied this was impossible. We must not allow special and designing interests to take advantage of feverish and abnormal conditions during war to perpetuate these conditions to fetter and cripple honest private enterprise, investment, and prosperity when peace comes. During the war discussion of matters in time of peace hereafter to come can be at best but academic—in fact, if indulged in should be only academic, else it might produce either one or two evils—first, diversion of attention necessary to war maneuvers; second, perpetuation of war methods and application of them to peace times.

The propositions of the railroads were made before our participation in the war, and we entered upon their consideration. I hope my views on their propositions may be of some value in the final conclusions of the committee.

The basis of the railroad propositions is the lack of sufficient revenue and repressive, punitive, and unfriendly legislation. It is obvious that the railroads need revenue, but it is equally obvious that their representations have grossly exaggerated the situation and placed it before the committee in an imperfect light, not discriminating between strong and weak railroads and not disclosing to the committee the different figures and conditions of different roads nor assigning the true causes of such financial straits as exist.

Our railroad system is the pride of the country, the best and greatest in all the world, even after making allowance for the



lamentations of all the pessimists. It must be preserved, but admission of the fact that it must be preserved does not logically lead to the conclusions insisted upon. I think every railroad in the country should be made safe to the public, safe for life and limb of travelers, and safe for prompt and expeditious carriage and delivery of all property, and it should be safe to the investors in the sense that they are allowed to enjoy profitable return on their money invested, and safe to the operators who depend upon their personal labor and attention for the daily bread of themselves and their families.

The excuse for appealing to Congress for redress is that the Government has hampered the attainment of these ends by repressive and restrictive regulation.

The carriers, in order to insure an ideal system conforming to the conditions which I have already stated, should be enabled to furnish in some places three and four tracks and more, and in all places double tracks, sufficient terminal facilities, and motive power promptly to transport all passengers and freight. It is believed that fair treatment of the public, such as they are entitled to, would insure to the railroads revenues enough to meet all these demands.

Is it true that the railroads have been deprived of realizing these necessary revenues through unjust and punitive regulation? I deny it. When attention has been called to particular measures for regulation, it has been admitted by the advocates of this revolution that such has not been the result of a single Federal statute. The basic principle of our system of regulation is that rates and practices must be "reasonable and just." No honest man can object to that. Railroads should not make money by rates and practices that are not "reasonable and just."

They can not complain of a general system of regulation, because, although fighting such regulation at every step, the carriers themselves now generally admit the wisdom of the legislation. It can not be claimed that the prevention of rebates and special privileges was injurious or repressive, because many of the carriers themselves advocated that legislation. They can not deny that the law prohibiting the issuing of free passes resulted to their benefit. In fact, they told the House Committee on Interstate and Foreign Commerce that if relieved of that burden they would carry passengers at a much lower rate. Free transportation should be forbidden. The transportation of employees should not be called free transportation. It should be provided for as a part of compensation.

They can not complain at the safety-appliance laws, for the carriers have generally participated in that legislation and have sanctioned the general principles, claiming usually that they have voluntarily been doing all that legislation or necessity required.

Without further enumeration it is safe to say, as I have already done, that no particular act can be justly criticized by the carriers as punitive and unduly restrictive.

Then they reduce the statement to the general complaint that they can not make profits because we control their practices, their rates, and their revenues, and that it is all done by politicians and not by business men. That statement is refuted by the fact that the Committee on Commerce in the two Houses have been composed for generations of the very best business men in the country, not only

able lawyers, but men who have had experience in all sorts of litigation concerning transportation and other business, and they have had the advice and assistance in every instance of all the available skill and experience of the railroad experts both in administrative and operating departments of carriers in the United States. When driven, however, from criticism of Federal regulation they say the trouble is with State regulation and they want to be freed from 48 different masters. Well, if we take your position and viewpoint with the millionaire investor, with no interest in the carriers or in the public except to derive dividends from stock or bonds, or take our place with the high-salaried directors and officers of the companies who wish to avoid all regulation possible, and all friction, and labor possible, in transacting their business, we may be able to reconcile our minds to revolutionizing our system of government, denying and dethroning the authority of the 48 States, depriving local communities of conveniences and assurance of proper consideration and service in order for one central authority at Washington to make easy corporate operation and render certain large dividends by the proposed step. That view of the case, however, assumes and sanctions a historical and political revolution of our system.

The sovereign States were here first. They made the Government. With them rests the propagation of natural persons and the creation of artificial persons or corporations. Before railroads were ever dreamed of the makers of the Constitution realized that some States were discriminating against other States and that it was desirable that interstate commerce should freely operate throughout all the States. In order to overcome the discrimination of one State against another State the commerce clause of the Constitution was enacted, giving the Federal Government the power to regulate interstate commerce.

It was not adopted for the purpose of destroying the power of the States to regulate transactions wholly within their borders, but for the purpose of enabling each State, while surrendering the power of discrimination against other States, to do business in all other States on equal terms. No purpose of the Constitution has been so widely perverted as has this particular proposition, intended solely for the purposes stated.

When we examined the great and able lawyer who represents the committee of 15, representing a portion of the railroads in the United States, he in his honesty and candor admits that that power of the Constitution does not authorize Congress to go into the internal affairs of any State in railroad matters or otherwise. But he proposes, at the behest of the committee which he represents, a system of Federal incorporation and then he admits as a lawyer that a Federal corporation will have no more rights under the commerce clause of the Constitution than a State corporation. Congress, under that clause of the Constitution, has plenary power over all instrumentalities alike, no matter where a man is born nor where a corporation is chartered nor where a partnership has its headquarters, for physical and sovereign control over all such instrumentalities applies alike to all, without exception or qualification. The qualification applies not to the form or person of the instru-

mentality or its origin, but only to a line of demarcation, to wit, is the operation within a State exclusively or does it appertain to more than one State.

The truth is that the idea, not of the distinguished lawyer who represents the railroad committee—he would not entertain such a thought—but it is prevalent throughout the country that there is a glamor and potentiality apparently investing anything with a Federal name that carries irresistible force everywhere that, bearing such credentials, an agent claiming Federal authority, will infringe and fudge and the people will yield. Something akin to moral intimidation will break down local opposition and barriers and that a Federal incorporation would enable things to be done with less friction and resistance. That idea is fortified by a long historical list showing different assertions about the intendment of the clause and the manner of its construction—a long list dangerous to our liberties in connection with the Federal Government.

When that compromise was agreed upon Jefferson and his disciples apprehended and Hamilton and his disciples joyfully anticipated that Federal construction would lead to the extension of the powers conferred by Federal Constitution, and that accordingly by construction, the centralizing idea which seemed to fail of expression in the Constitution would reap full fruition by construction. For strict construction a large number of wise patriots in the country have always contended. Unless we stand with that body of wise patriots we will hasten the destruction of the Republic which will inevitably come sooner or later through liberal construction, which permits Federal legislation and enforces it by more liberal construction.

Entertaining such views I regard Federal incorporation not only as dangerous but as entirely unnecessary. The proposition "to rid the carriers of 48 masters" is a misleading statement. The persons who bought up these railroads have done so of their own volition, which they had a right to do, and operate them cum onore, induced thereto solely by financial considerations. The proposition to change our form of Government to add to their convenience or gains is entirely untenable. The charters granted by the States were intended for local purposes and were consented to by the people from considerations of local conditions, convenience, and profit. Rights of way, local concessions, local control of schedules and connections, the prosperity of towns and communities based on such considerations were all moving factors in original construction.

The fact that final ownership of these railroads has passed to bondholders, stockholders, and other chance investors does not justify disregard or destruction of these conditions. To say that our transportation is a national question is a misleading catchword. It sounds big and is useful in time of war as has already been shown. In time of peace it is a matter for local consideration. The country is made up of local population and local and individual interests. Its greatness depends on local enterprise and local prosperity. It is sometimes convenient for a tourist or commercial man to hurry from Boston to California, but it is irritating to the local communities, on which the carrier is dependent for its prosperity, to see these palace trains dash by without noticing the localities on which they



depend for revenue and verdicts in the courts while relegating the local population to second-class trains, which run before day and after dark, and which often make long waits at connecting points for those selfsame through trains. It would be profitable to the carriers to stop and study considerations of sound policy right there. Furthermore, it is not true that any of these carriers have as yet succeeded in dominating 48 States by ownership of all the railroads. It will be a sad day when they do, but if they should it would not justify them in changing all laws to suit their convenience in all States.

Every business man has a right to do business in every State, but when he goes away from his own State he must behave himself as a gentleman and conform to the local police regulations for morality and good conduct in all those States. The owners of railroad stocks and bonds and the officials of the carriers are mere humans, citizens of the United States and of the various States, and have no superior right to claim any greater immunity from local submission than have other citizens.

The restrictive provisions contained in Federal and State laws are all leveled at bad men, not good ones. They do not inflict injustice and are not offensive to any honest railroad man any more than laws against immorality and crime are offensive or repressive to preachers and other good men in the country. Such laws are made for the protection of good men by curtailing the evil conduct of bad men.

All benefits of the commerce clause of the Constitution can be easily secured under the present plan of regulation. If we destroy the present Commerce Commission and establish regional commissions, the regional commissioners would be appointed at Washington. They would not be representative of the localities. They would not necessarily be representative of the public view in any locality, and under any suggested plan of review or appeal ultimately all authority would be exercised by some sort of commission at Washington. The new plan, like the present plan, must be executed by mortal men and their efficiency depends on their personal merits and efforts. The Federal Government can secure just as good men under the present system as under the proposed new plan. The trouble with reformers now and always has been, if you can call this a reformation, is that instead of trying to correct abuses by amending existing systems and executing existing laws they always want to do away with what exists already and undertake new legislation and new systems. If the reformers would first try to enforce present laws awhile, at least far enough to give them a fair trial and suggest necessary amendments, it would be found much wiser and better.

We have lately amended the present law by adding two commissioners and authorizing subdivisions of the commission, each with power of the commission, with the action of each subdivision subject to revision by the entire commission. The membership should be increased to 15, and they should be selected from every part of the country. There would be no difficulty in providing for and carrying out the present scheme, and it would be better if the commissioners should hold investigations in all parts of the country and discontinue the present system of making these investigations through agents and examiners. If \$10,000, the present salary, will

not secure the ablest men in the country, it is easy to increase that salary. It is the most important body in the country and should be composed of the ablest and best men, and that could and would be accomplished as easily as with any other possible board.

Every benefit possible under the commerce clause of the Constitution can be realized under the present system. The line between interstate commerce and internal police authority is not definitely defined. It is a matter for ascertainment in each particular case. It is certain the Federal Government is the final arbiter as to where that line can eventually rest. If the present commission has not sufficient authority to condemn every State act which interferes in any way with interstate commerce, Congress can easily make that power clear. When Congress enacts such a statute and the Supreme Court construes it then it is final.

I apprehend that ultimately the action of the Federal Government will leave very little control over transportation in the States themselves. Every transportation company, railroad or otherwise, which is necessary to the service of the people can be made a participant in interstate commerce, whether it desires so or not, for it can be connected with interstate carriers. Then every act of a State touching that carrier which interferes in any way with the free operation of interstate commerce will be illegal and void when the Federal Government occupies the field. It is certain it may do so and it seems inevitable it will do so. If so, let it come in an easy, progressive, constitutional, and natural way and not be precipitated by sudden and violent action.

So far as the financial operations of interstate carriers are concerned, there is no doubt of the power of Congress to enact appropriate legislation at least far enough to protect the carriers against themselves and one another against frenzied finance and misappropriation of funds, compelling wise application of funds so that the physical condition of the carriers will be improved instead of impaired by irresponsible operation and administration at the expense of the properties themselves and the safety of the public.

The House has once passed the Rayburn bill and the House committee has reported it a second time. If that bill should be enacted into law, in my judgment, it would meet all the necessities of the case, provided the carriers will adjust their rates and practices to insure fair treatment of the different communities in the United States and the development of those parts of the country which need development, thereby creating new and larger and more profitable fields for revenue instead of scrambling for revenue and traffic already created and depleting the revenues of other carriers by such a scramble.

So far as the proposition for Government ownership is concerned, it is absolutely useless in the first place, because whatever regulatory power the Government would have as a sovereign it may have and exercise over the operation of everything within its boundary regardless of ownership. It would have no more power over the regulation of interstate carriers as the owner of the carriers than it does have as the sovereign. It would have no more sovereignty over its own properties than it has over the holdings of other owners, and it would not exercise its power of sovereignty over its own properties to the detriment of the properties of private citizens. If the Government should

encumber itself with the operation of all the railroads it would involve itself in political confusion and corruption unspeakable, which alone would offset any possible advantage suggested by the disordered mind of the wildest theorist.

I wish to call the attention of the committee to what I consider the most important subject next to destroying the Kaiser in time of war and of peace, and that is the liberalizing of the general dam act so as to induce private capital to improve the navigable streams. The possibilities of development in this country are so great that even if only partially realized the existing transportation facilities will be totally inadequate to distribute the products of our farms, mines, and factories. The navigable waters of the country should be made to carry most of the heavy freight. It is not probable that the Government will make all these improvements in a hundred years. They are very expensive and the number is large.

Almost every navigable stream in the country, however, is interrupted or broken by shoals which attract capital to develop water power for the generation of hydroelectricity. Almost every such stream can be made to pay at least the expenses of its own improvement for navigability. In addition to that, they would be dotted with all sorts of factories. The electricity generated would electrify most of the railroads in the country and save coal. It would manufacture almost all commodities. It would not only produce from the air nitrates for war purposes and for agriculture, but it would be used to manufacture steel in the most approved methods and soda and aluminum, and cotton goods and woolen goods and almost every conceivable thing needed for foreign and domestic trade, all of which furnish inducements to private capital to improve the shoals. Up to this time little streams which are nonnavigable have been relied upon, and the proposition has been clouded and confused with the question of dealing with power sites on the public domain, of which the United States is the owner as well as the sovereign. These public-land sites and the nonnavigable streams are capable of comparatively small development and benefit, and those who promote water-power development should be induced, if not compelled, to develop the navigable rather than the nonnavigable streams, and the inducements are so much greater because of the much larger power obtainable. If permitted by law, they would be developed instead of the minor streams.

We enacted a general dam law in 1906, of which capital was rapidly availing itself. Many consents of Congress were granted and a great many companies were formed. With several projects constructed under that law further development was suspended because certain persons in the country started a propaganda to the effect that we were giving away something to private monopoly. Our committee conferred with the authors of that propaganda and tried to agree with them on terms. For instance, they demanded that the Government should retain the power to regulate production, practices, and charges. We arranged to provide that. They insisted that the Government should retain the right to impose all conditions requisite to the public good. We agreed to provide that. It was insisted that the Government should reserve the right to charge an annual amount based on the benefits to the promoter or grantee with



due reference to the benefits to navigation, and we agreed to that. Finally objection was reduced to the concrete form of demanding that the grantee should submit to a stipulation that he should not only construct such locks, dams, and other structures as required at the time of approval of his plans and specifications, but should thereafter put in such other structures at his own expense as might be required by the Government at any time during the life of his grant, and the further demand that annual charges might after 20 years be changed by the Government without the consent of the grantee, and might be changed each 10 years thereafter without the consent of the grantee. Of course such stipulations would induce no capital to build dams. Other potent obstruction comes from existing electric companies, who assume an attitude similar to that assumed by the leading railroads, to wit, that development is practically finished.

The railroads say no other railroads should be built unless the present railroads need them and do the building. The present electric companies object to the further development of other electric enterprises through fear that competition would reduce the price of electric current, although such reduction would be of great benefit to the public in the building up of the country and break their strangle hold on prices and popular prosperity. They are willing for extensions to be made provided they can control extensions and prices. This suspension of construction has enabled them to acquire property rights at most of the sites, for the original owners were unable to hold unprofitable property and sold it to the water-power trusts, the only purchasers in the restricted market. It is necessary to liberalize our legislation to provide for condemnation proceedings so that other investors may secure these sites for improvement if the companies holding them persistently refuse or fail to develop them. I commend the entire subject to the committee for the consideration its transcendent importance deserves.

I shall attach to my statement nine exhibits showing some efforts of the House Committee on Interstate and Foreign Commerce to amend the general dam law and also to control railroad securities.

(The exhibits are as follows:)

#### EXHIBIT 1.

#### INCREASING COMMERCE COMMISSION.

#### SPEECH OF JUDGE ADAMSON.

MR. ADAMSON. Mr. Speaker, the purpose of this bill is to add two members to the Interstate Commerce Commission, making the number nine instead of seven. Ordinarily I am not in favor of enlarging the size of commissions nor increasing the number of officers nor their salaries. When the number was increased to seven I opposed it, believing that five competent men would form an efficient and satisfactory commission, but increasing the powers of the Interstate Commerce Commission has very materially increased their work. They are compelled to make numerous investigations of very important and laborious character. Their hearings are numerous, requiring much time and considerable study. Of course enlarging the number would not operate to relieve the situation if the commission were required to sit together in all hearings and investigations, but that is not necessary. On the contrary, the members divide up into sections, and often have different hearings going on at the same time in different parts of the United States. The enlargement proposed in this bill will enable the commission to separate itself into three subdivisions of three members each, so as to conduct three hearings and investigations at the same time.

The large majority of the matters coming before them will not demand the united attention of the entire commission, but only matters involving differences of opinion need be referred to the full commission, so the different subdivisions of three members, each disposing finally of the consideration of numbers of matters, will leave a much smaller number involving such difficulties and disputes as to require consideration by the entire commission. Much more work can thus be done, and it is absolutely necessary that much more should be done in order that the benefits hoped for may be realized from our rate legislation.

We hear and read a great deal of late about the defects in that regulation. Of course the particular corporations whose conspicuous misdeeds contributed most to make rate regulation necessary objected most strenuously to that or any other regulation, and they did not set out to be satisfied with that or any other regulation. They deny their public capacity, they deny that they have any reciprocal obligations to the public in turn for the franchises and monopolistic privileges which they enjoy. In effect, they claim that the transportation of freight or passengers is an insensate commodity, to be disposed of on the market like other merchandise, combating flatly the well-established and fundamental doctrine that their relationship to the public is practically the same as that of any other officer charged with the responsibility of performing service for the public. I do not think that all corporations profess these opinions, nor do I believe that all corporations render such legislation necessary. As corporations are owned and conducted by mortal men, they are good or bad according to the character of the men who control them. Of course different men expected to accomplish different things by the attempted rate regulation. Different reformers desired different reforms to remedy different evils. I did not pose as a professional rate reformer myself, but sought correction of specific evils. I have always believed that all the people of this country were alike fellow-citizens, with the right to live and move and have their being, and own any kind of legitimate property that they were able to own, carry on any kind of lawful business, and not only be protected in their holdings and operations but also enjoy the right to participate in the Government, and vote and petition, and speak and write, and exercise their influence in all legitimate ways in the consideration of all legislation affecting their own property or the property of their fellow-citizens without regard to kind or character, whether real, personal, mixed, rolling, stationary, on paper, or on the ground. There were some practical questions of vital importance to a great many local communities. For some reasons, possibly one of them being the consolidation and remoteness of ownership, which rendered it impossible for the owners and bondholders to see far enough to discover local trouble, local injustice, and inconvenience were inflicted on many communities.

Good towns, with large commerce and intelligent population, having much business abroad and often visited by many people from abroad, were unjustly discriminated against. Some of them, by consolidation, were bottled up, deprived of necessary passenger and mail facilities and charged a higher freight rate than was charged to haul the same goods in the same direction through those towns and on to more distant points. Those were the main difficulties that fell under my observation and moved me to support an amendment authorizing the Interstate Commerce Commission to correct those evils. The evil as to passenger and mail connections was partially due to the effort to make fast schedules for through trains. Of course that is important to people who want to hurry across the country for long distances with as much haste and at little discomfort as possible, but they are not the people who control the legislative and legal and judicial and commercial weather for the railroads. The Boston drummer or the California or Florida tourist have very little influence with that local sentiment which must exist in whatever humor in a thousand localities between Boston and San Francisco. To that local sentiment the carriers are beholden in many ways. If their managers were wise enough to take notice of it and show a little intelligent consideration for the wishes and conveniences of the people living around those local stations a mere trifle in expense or apparent loss of revenue would produce a degree of popularity and prosperity all along the line that would be pleasing and profitable to the carrier, decrease the number and the character of complaints, minimize the amount of regulation demanded, greatly reduce the amount of litigation, and reverse the character of the verdicts. It is a matter of constant wonder to me that some of the carriers are so stupid or obstinate as to fail to see the facts here referred to.

There is one great mistake, in my judgment, the railroads make that adds to the difficulty and discontent about freight rates. When they pretend to operate on a mileage basis they do not make the initial charge large enough to permit of proper gradations in the charges to successive stations on long routes. They fail to take into consideration and charge enough for the initial care and handling and the terminal care and unloading. Those items are substantially the same for all distances and make up really the most troublesome part of the carrier's duty in handling freight. If a proper charge were made to begin with—for instance, to the first station on the line—then an infinitesimal addition in the rate to all successive stations would aid very materially in solving the problem of fair rates to all stations and minimize the danger of complaints against that evil, always obnoxious—discrimination in rates between two neighboring stations. Nothing, in my mind, can make a jobber lose his temper quicker or more justifiably than for a train of cars coming from the same point to leave for him a carload of goods and then run on to a station 40 miles farther in the same direction and leave another car at a rate of freight so much less that the latter consignee is able to ship back on a local train and undersell the first-named jobber in his own town. There is only one other thing that approximates it in wrath-producing efficiency, and that is for a number of good towns, who care more for communication with their county seats, their State capitals, or their immediate markets than they do for mail from Boston or passenger connections across the continent to have to wait half the day or half the night often without certain knowledge of the exact time to be lost, for a train either to take them home or to bring them their mail, or pay them, laid out on a side track.

A little intelligent good sense would have relieved all of these troubles and helped the carriers in every respect in proportion as they benefited and pleased their local patrons. "There is that that scattereth abroad and yet maketh rich; there is that withholdeth more than is meet, yet tendeth to poverty." There were other reformers who saw a great many other evils and sought to correct them. Well, I have no disposition to oppose any of those reforms, but I did not think it proper to devote time and attention to them at the expense of those that I considered more important. For instance, there is a great outcry about watered stocks and bonds and overcapitalization. The law undoubtedly ought to provide ample means for punishing surely, swiftly, and severely all the malefactors who swindle their fellow-men in that or any other way.

It is undoubtedly an outrage utterly inexcusable to burden legitimate traffic with exactions to pay unearned returns on entirely fictitious capital. Of course the doctrine of selfishness, coupled with power, alone supports the outrage, as in the case of some other vicious practices conspicuous of late years in this Government where certain people are permitted by law to destroy for their own benefit the business and opportunity of their fellow-citizens. A striking instance is the case of robber protective tariff which prostitutes the taxing function of the Government so as, without putting one dollar into the Treasury of the country, to compel honest industry to pay enormous tribute to Government favorites or go out of business, or pay enormously higher for the necessities of life than in the natural course of honest trade they would have to pay but for the dishonest and unnatural scheme foisted upon them to force them to pay unjust prices to such special beneficiaries.

There are other reformers who devote attention to seeking physical valuation of railroad properties. That is all right for some purposes. When you know how much a road is worth you are in possession of one important circumstance to enable those charged with that duty to pass on the proper rate and facilities that should be required on that road; but that fact in itself does not alone furnish an infallible basis, because one road running directly between two points which are connected by another road over a more circuitous route may not have cost near so much as the longer road, and yet, by its facility to transact business more rapidly and cheaply, it may be more valuable than the other, if judged by its net income, which would appear to me to be a more proper criterion. It is also valuable to have such valuation for the purposes of just and a fair taxation. It is darkly insinuated that some railroad men are as bad as other folks about dodging their taxes. That is another place where the same kind of human nature crops out, and a man who cultivates a studied reserve about extravagantly pricing his property is as liable to withhold from the Government taxes due on railroad property as are other people in case of land, jewelry, or any other property.



There is another noticeable matter. When the Hepburn rate bill was under consideration, for several years violently opposed by various railroad authorities, it was denied that the Federal Government had anything to do with them, and they were the most patriotic, democratic, local self-government, liberty-loving, states-rights advocates I ever heard talk. We understood that if they were rid of free passes a 2-cent passenger rate would afford satisfactory returns; that counting out the deadheads they hardly realized 2 cents a mile on their passengers; that even as it was, hauling deadheads, many passenger trains ran through the country with only a small per cent of the seats occupied. When we adopted the Hepburn bill we did not merely authorize the railroads to abolish free passes but actually did it for them, and the States began to provide for the reduction of passenger rates.

Then these self-same railroad magnates became the most violent federalists and resisted in the Federal courts the action of the very State sovereignties which they had formerly lauded, and when it was proposed in Congress to provide for uniformity as to lower rates those same magnates appeared with the most lugubrious countenances to make prolonged and wailing protestations as to the utter ruin facing carriers if compelled to adopt a lower rate. Yet, strange to say, the strong roads running through populous communities did not stress their own inability, but argued the inability of other weaker roads in more remote and sparsely settled regions to stand the reduction in rates. Yet one fact stood out prominent through it all—that those roads which permitted lower rates carried their trains loaded with passengers and realized handsome returns from their business, and that the roads which did put the reductions in force, even over their protest in regions where they claimed that they could not stand it, found their passenger receipts were increased. It is not insisted, however, that Congressmen can be dogmatic or arbitrary about fixing rates. Yet there is one thing we ought to insist on: Transportation, being a public service, uniformly rendered alike to all, ought to be rendered at the same price to all comers, high, low, rich, or poor, where the same facilities are furnished, whether the ride is for a hundred miles or a thousand, and I for one will never consent to any other arrangement. Some of the railroads have acted very foolishly in making ill-tempered efforts at reprisals on the people for the agitation of the rate legislation. Where they have issued mileage books, even at a rate discriminatory in price as against the local travel by ticket or cash fare, some of them have put unnecessary conditions and inconveniences upon the scheme.

They have ceased to allow a man in a hurry to get on a car and have his mileage book pay his fare to the conductor. He must go into the depot and exchange his mileage coupons for a ticket, and look after his baggage check, with as much detail and particularity and trouble as if he paid cash each time for his ticket. Those are the very things that travelers desire to avoid, and for that reason would buy mileage books at the same price or even higher than charged for local travel. I have never understood any reason for this except the pretense that dishonest passengers may juggle with conductors to knock down fares more easily than they can with ticket agents. I do not know whether ticket agents are more honest than conductors or not. I doubt it. If they are, they are good men, for in the last forty years I have seen and ridden with hundreds of conductors, and I do not believe that in any walk of life or avenue of business I have ever known a higher class of men—uniformly polite, honorable, and vigilant.

Another defect that is not only without excuse, but subjects the carriers to criticism and ill will sometimes out of proportion to any consideration on which they may base it; that is, their refusal, in some instances, to sell through tickets and check baggage beyond connecting points. I have never seen nor heard a reason for it that the carrier could not have obviated by proper diligence in making joint rates and filing the same. It has been resented by the people as an effort by the railroads to hit back for adverse agitation, and the popular resentment, as in some other cases, may have exceeded the provocation.

These observations are meant in good will, in the hope that some of the erring corporation men may see proper to join others who are already doing right in trying to please and accommodate the people, thereby reducing the necessities for litigation or legislation and making the mutual transactions of the railroads and the people at once more profitable and more satisfactory to all concerned. There is no use for railroad authorities to try to fool anybody or themselves by remarking that points are not on their lines, and therefore they have no jurisdiction to make arrangements about them, nor by claiming that they are restricted

by any laws or regulations from promoting the convenience of the people and rendering them fair treatment. Everybody knows that all the railroad interests are in a manner allied, not only from financial conditions in this country, but owing to the nature of their property and the peculiar business in which they are engaged. While they have no power to make unrighteous pools and combinations to destroy commercial points or rival lines, yet they can mutually consider the convenience and interest of the people, promote their own convenient and prompt connections, and arrange for joint routes of travel and freight to all points, in all directions, anywhere. A proper manifestation of a desire in that direction expressed in honest effort will go far to improve their standing before the commission, before the courts, with Congress and the State legislatures, and above all, with the people, who are at last, in their local communities, the final arbiters of the prosperity or adversity of the railroads, which are in position to turn to serve or to ruin their patrons.

Whatever their grievances may be, it behooves the people to take notice that legislation, however wise, specific, and comprehensive, will not alone suffice to redress their wrong. The strong point about railroads is, they prepare to back up their policies by the most able counsel the country affords. In every judicial circuit the very ablest lawyers are engaged by the railroads and educated in their service for their benefit. All the people together are richer than all the railroads. The people support all the railroads; the law is, and should be, impartially administered between the people regardless of the character of their property or vocations, but no law will enforce itself. It must be invoked before the courts can administer it. If other people will stand the trouble and expense, as railroad managers do, to employ and pay good lawyers, it will be found that most of the trouble can be adjusted or avoided with very little additional legislation. The principles of right and justice are eternal. The law should be, and generally is, based upon those principles. People litigate about everything else under the sun, but think only of legislation when it comes to dealing with the railroads. The truth is, I have known few instances of injustice that could not have been redressed in the courthouse if the same legal talent had been engaged against the railroads that was employed in their favor. So while I admonish the railroads to avoid the necessity of legislation or litigation by such fair treatment as will conciliate the favor of the public I at the same time exhort all the other people to devote a little of their money and energy to compelling the railroads to do right by employing some of the good lawyers themselves, and invoking the justice and the power of the courts and commissions, both State and Federal. Valuable amendments have recently provided for expediting proceedings in courts and before the commission in rate cases, of which injured communities should avail themselves by retaining lawyers and instituting proceedings.

#### EXHIBIT 2.

[H. R. 15805, Sixty-third Congress, second session.]

**A BILL** To amend an act entitled "An act to regulate the construction of dams across navigable waters," approved June twenty-third, nineteen hundred and ten.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the act entitled "An act to regulate the construction of dams across navigable waters," approved June twenty-third, nineteen hundred and ten, be, and the same is hereby, amended to read as follows:

"SECTION 1. That when consent has been or may hereafter be granted by Congress, either directly or indirectly through any duly authorized official or officials of the United States, to any persons to construct and maintain a dam for water power or other purpose across or in any of the navigable waters of the United States, such dam shall not be built or commenced until the plans and specifications for such dam and all accessory works, together with such drawings of the proposed construction and such map of the proposed location as may be required for a full understanding of the subject have been submitted to the Secretary of War and the Chief of Engineers for their approval, nor until they shall have approved such plans and specifications and the location of such dam and accessory works; and after such approval it shall not be lawful to deviate from such plans or specifications either before or after completion of the structure unless the modification of such plans or specifications has previously

been submitted to and received the approval of the Chief of Engineers and of the Secretary of War.

"SEC. 2. That as a part of such approval such conditions and stipulations may be imposed as the Secretary of War and the Chief of Engineers may deem necessary to protect the present and future interests of the United States, which may include the condition that the persons constructing or maintaining such dam shall construct, maintain, and operate in connection therewith, without expense to the United States, a lock or locks, booms, sluices, or any other structure or structures which the Secretary of War and the Chief of Engineers or Congress then may deem necessary in the interests of navigation, in accordance with plans made a part of such approval; and also that in case such facilities of navigation shall not be made a part of such original approval and construction, whenever Congress shall deem such facilities necessary, the persons owning such dam shall convey to the United States, free of cost, title to such land as may be required for such constructions and approaches, and shall grant to the United States free water power or power generated from water power for building and operating such constructions, and in such original approval, at the discretion of the Secretary of War and Chief of Engineers, may be required to maintain and operate such lock without expense to the United States.

"SEC. 3. That as a part of said approval the Secretary of War and the Chief of Engineers shall require that the plans, specifications, and location for any dam shall be such as shall be best adapted to a comprehensive plan for the improvement of the waterway in question for the uses of navigation and for the full development of its water power and for other beneficial public purposes, and best adapted to conserve and utilize, in the interests of navigation and water-power development, the water resources of the region.

"SEC. 4. That as a part of the conditions and stipulations such approval shall provide—

"(a) For reimbursement to the United States of all expenses incurred by the United States with reference to the project, including the cost of any investigation necessary for the approval of the plans as heretofore provided, and for such supervision of construction as may be necessary in the interest of the United States.

"(b) For the payment to the United States of reasonable charges for the benefits which may accrue to such project through the construction, operation, and maintenance by the United States of headwater improvements, including storage reservoirs, on any such stream, such charges to be fixed from time to time by the Secretary of War and Chief of Engineers and to be based upon a reasonable compensation equitably apportioned among the grantee and others similarly situated upon the same stream receiving benefits by reason of increase of flow past their water-power structures artificially caused by such headwater improvements, the total charges to all such beneficiaries from any such headwater improvement not to exceed in any one year an amount equal to five per centum of the total investment cost, in addition to the necessary annual expense of the operation of such headwater improvement.

"(c) That in the construction, maintenance, and operation of such dam and accessory works there may be occupied and used such lands of the United States as may be necessary therefor, and in consideration thereof the owner of such dam shall pay to the United States such charges, not to exceed an annual payment of five per centum of the fair value of such lands, as may be fixed by the Secretary of War and Chief of Engineers, and in fixing such charges consideration shall be taken of the benefits accruing thereby to the interests of navigation as well as to the business of such grantee.

"(d) For the payment or securing the payment to the United States of such sums and in such manner as the Secretary of War and the Chief of Engineers may deem reasonable and just substantially to restore conditions upon such streams as to navigability as existing at the time of such approval, whenever the Secretary of War and the Chief of Engineers shall determine that navigation would be injured by reason of the construction, maintenance, and operation of such dam and its accessory works.

"SEC. 5. That the operation of navigation facilities which shall be constructed as a part of or in connection with any such dam, whether at the expense of such grantee or of the United States, shall at all times be subject to such reasonable rules and regulations in the interest of navigation, including the control of the level of the pool caused by any such dam, as shall be made by the Secretary of War and Chief of Engineers, and in the use and operation



of such navigation facilities the interests of navigation shall be paramount to the uses of such dam by such grantee for power purposes. Such rules and regulations may include the maintenance and operation by such grantee, at its own expense, of such lights and other signals as may be directed by the Secretary of War and Chief of Engineers and such fishways as shall be prescribed by the Secretary of Commerce, and for failure to comply with any such rule or regulation such grantee shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than \$500 for each month's default, in addition to other penalties herein prescribed or provided by law.

"SEC. 6. That the persons constructing, maintaining, or operating any dam or appurtenant or accessory works, in accordance with the provisions of this act, shall be liable for any damage that may be inflicted thereby upon private property, either by overflow or otherwise.

"SEC. 7. That any grantee who shall fail or refuse to comply with the lawful order of the Secretary of War, made in accordance with the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding \$1,000, and every month such grantee shall remain in default shall be deemed a new offense and subject such grantee to additional penalties therefor; and in addition to said penalties the Attorney General may, on request of the Secretary of War, institute proper proceedings in the district court of the United States in the district in which such structure or any of its accessory works may, in whole or in part, exist, for the purpose of having such violation stopped by injunction, mandamus, or other process; and any such district court shall have jurisdiction over all such proceedings and shall have the power to make and enforce all writs, orders, and decrees necessary to compel the compliance with the requirements of this act and the lawful orders of the Secretary of War and the performance of any condition or stipulation imposed under the provisions of this act; and if the unlawful maintenance and operation are shown to be such as shall require a revocation of all rights and privileges held under authority of this act, the court may decree such revocation. In case of such a decree the court may wind up the business of such grantee conducted under the rights in question and may decree the sale of the dam and all appurtenant property constructed or acquired under authority of this act, and may declare such dam and accessory works to be an unreasonable obstruction to navigation and cause their removal at the expense of the grantee owning or controlling the same, except when the United States has been previously reimbursed for such removal, or may provide for the sale of the dam and all accessory and appurtenant works constructed under authority of this act for the further development of water power, and may make and enforce such other and further orders and decrees as equity demands; and in case of such a sale for the further development of water power the vendee shall take the rights and privileges and shall perform the duties which belonged to the previous grantee, and shall assume such outstanding obligations and liabilities arising out of the maintenance and operation of said dam and accessory works for power purposes as the court may deem equitable in the premises.

"SEC. 8. That no property or project installed and operated under the provisions or benefits of this act shall be assigned or transferred except upon the written consent of the Secretary of War, except by trust deed or mortgage issued for the purpose of financing the business of such owner, and any successor or assign of such property or project, whether by voluntary transfer, judicial sale, or foreclosure sale or otherwise, shall be subject to all the conditions of the approval under which such rights are held, and also subject to all the provisions and conditions of this act to the same extent as though such successor or assign were the original owner hereunder.

"SEC. 9. That the rights herein granted shall continue for a period of 50 years from and after the date of the completion of the structure described in the original approval, and after the expiration of said 50 years such rights shall continue until compensation has been made to said grantee for the fair value of its property, as hereinafter provided.

"SEC. 10. That at any time after the expiration of said fifty years the Secretary of War may terminate the rights hereby granted upon giving to the owners thereof one year's notice in writing of such termination, and upon the taking over by the United States, or by any person authorized by Congress, of all of the property dependent in whole or in part for its usefulness upon the rights hereby granted, which shall include all necessary and appurtenant property created or acquired and valuable or serviceable in the distribution of water, or in the

generation, transmission, and distribution of power, and all other property the value and usefulness of which would be destroyed or seriously impaired by such termination, and upon paying the fair value of said property, together with the cost to the grantee of the lock or locks or other aids to navigation and all other capital expenditures required by the United States, and assuming all contracts entered into prior to the receipt by it of said notice of termination which have the approval of the duly constituted public authority having jurisdiction thereof, or which were entered into in good faith and at a reasonable rate, in view of all the circumstances existing at the time such contracts were made. The fair value of said property and the reasonableness and good faith of said contracts shall be determined by agreement between the Secretary of War and the owners of such property, and in the event of their failure to agree, then by proceedings instituted by the United States, or by any person authorized by Congress, in the district court of the United States within which any portion of such dam may be located. In the determination of the value of said property upon the termination of said grant as above provided no value shall be claimed by or allowed for the rights hereby granted.

"Sec. 11. That in all cases where the electric current generated from or by any of the projects provided for in this act shall enter into interstate or foreign commerce, the rates, charges, and service for the same to the consumers thereof shall be just and reasonable, and every unjust and unreasonable and unduly discriminatory charge, rate, or service thereof is hereby prohibited and declared to be illegal; and whenever the Secretary of War shall be of the opinion that the rates or charges demanded or collected on the service rendered for such electric current are unjust, unreasonable, or unduly discriminatory, upon complaint made therefor and full hearing thereon the Secretary of War is hereby authorized and empowered to determine and prescribe what shall be the just and reasonable rates and charges therefor to be observed as the maximum to be charged and the service to be rendered; and in case of the violation of any such order of the Secretary of War the provisions of this act relative to forfeiture and failure to comply shall apply. That in the valuation for rate-making purposes of the property existing under said approval of the project there shall be included the cost of the construction of a lock or locks, or other aids to navigation, and all other capital expenditures required by the United States.

"The Secretary of War is further authorized and directed to include among the conditions for his approval of any plans or any project herein provided, as an express condition thereof, a clause reserving to the Secretary of War the same rights, powers, and duties set forth in this section; together with the same penalty for violation thereof: *Provided*, That whenever the State in which such current shall be used shall have provided by law adequate regulation for rates, charges, and service to the consumers for such electric current and such regulation shall not be unduly discriminatory or unjust against the service or charges in any other State arising from the use of the power from the same project, and such facts shall be established to the satisfaction of the Secretary of War, then in such case the provisions of this section shall not apply to the rate, charges, and service in and for such State.

"Sec. 12. That the grantee shall commence the construction of the dam and accessory works within one year from the date of the approval herein provided, and shall thereafter, in good faith and with due diligence, prosecute such construction, and shall, within the further term of three years, complete and put in commercial operation such part of the ultimate development as the Secretary of War and the Chief of Engineers shall deem necessary to supply the reasonable needs of the then available market, and shall, from time to time thereafter, construct such portion of the balance of such ultimate development as said Secretary of War and Chief of Engineers may direct and within the time specified by said Secretary of War and Chief of Engineers so as to supply adequately the reasonable market demands until such ultimate development shall be completed; and extensions of the periods herein specified, not to exceed two years, may be granted by the Secretary of War, on recommendation of the Chief of Engineers, when, in his judgment, the public interest will be promoted thereby. In case the grantee shall not commence actual construction within the time herein prescribed, or as extended by the Secretary of War, then the authority as to such grantee shall terminate, and in case any dam and accessory works be not completed within the time herein specified or extended as herein provided, then the Attorney General, upon the request of the Secretary of War, shall institute proper proceedings in the proper district court of the

United States for the revocation of said authority, the sale of the works constructed, and such other equitable relief as the case may demand, as provided for in section eight of this act.

"SEC. 13. That the right to alter, amend, or repeal this act is hereby expressly reserved as to any and all dams which may be authorized in accordance with the provisions of this act whenever Congress determines that the conditions of consent have been violated. In such cases the United States shall incur no liability for the alteration, amendment, or repeal thereof to the owner or owners or any other persons interested in such dam.

"SEC. 14. That the Secretary of War, upon the advice and with the approval of the Chief of Engineers, may lease to any applicant having complied with the laws of the State in which the dam is constructed or to be constructed by the United States, the right to develop power from the surplus water over and above that required for navigation at any navigation dam now or hereafter constructed, either with or without contribution by the applicant, and owned by the United States, and on such terms as may be deemed by the Secretary of War and Chief of Engineers for the best interests of the United States, and in awarding such lease preference shall be given to the applicant whose plans are deemed by any action of Congress or by the Secretary of War and Chief of Engineers to be best adapted to conserve and utilize in the public interest the navigation and water-power resources of the region, and all such leases and the parties thereto and the terms and conditions thereof shall be reported annually to Congress.

"SEC. 15. That no works constructed, maintained, and operated under the provisions of this act shall be owned, trusted, or controlled by any device or in any manner so that they may form a part of, or in any manner effect, a combination in the form of an unlawful trust or form the subject of an unlawful contract or conspiracy to limit the output of electric energy or in restraint of the generation, sale, or distribution of electric energy, or the exercise of any other business contemplated: *Provided, however,* That it shall be lawful under the approval of the Secretary of War for different grantees to exchange and interchange currents, to assist one another whenever necessary, by supplementing the currents or power, and enable any grantee to secure assistance to carry on the business and supply his customers, accounting therefor and paying therefor under regulations to be prescribed by the Secretary of War.

"In no case shall such an arrangement be permitted to raise the price, render unjust or unfair any practice, work, or discrimination, or operate in restraint of trade.

"SEC. 16. That the word 'persons' as used in this act shall be construed to import both the singular and the plural, as the case demands, and shall include corporations, companies, and associations. The word 'dam' as used in this act shall be construed to import both the singular and plural, as the case demands.

"SEC. 17. That all provisions in this act contained fixing conditions upon which the consent of Congress is granted for the construction of dams shall apply alike to all existing enterprises in operation or authorized, as well as to new projects to which the consent of Congress may hereafter be granted. All conflicting provisions contained in any act of Congress granting consent to the construction of any dam are hereby repealed, and all such previous authorizations are so altered, amended, and modified hereby as to conform to all of the conditions and provisions incorporated in this act."

### EXHIBIT 3.

[House Report No. 592, Sixty-third Congress, second session.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 16053) to amend an act entitled "An act to regulate the construction of dams across navigable waters," approved June 21, 1906, as amended by the act approved June 23, 1910, having considered the same report thereon with a recommendation that it pass.

Before acting on the subject, as per the bill herewith reported, your committee gave long, thorough, and patient attention to every phase of the subject, considered all the different views and shades of opinion entertained and advanced by many people who have discussed the question from various



angles and view points. Your committee has endeavored to find a true basis or common ground on which those entertaining various and divergent views on minor details might agree, in order that legislation might be secured and progress promoted toward the accomplishment of the purposes of the bill.

It was not the original intent of those who conceived and framed the general dam act to deal with all water power, nor all questions affecting water powers, nor was it originally intended to deal with questions affecting water-power sites on the Government public lands, nor with projects promoted by the Government at the expense of the Treasury for the promotion of navigation solely, though incidentally providing in many cases magnificent heads of water for the generation of power and hydroelectricity. There were many thousands of miles of shoally streams affording sufficient water to maintain navigation if the water could be controlled, canalized, and thrown into slack-water pools. The cost of such work, if undertaken by the Government, to promote navigation only would obviously be prohibitive. No commerce was borne upon the streams or the parts thereof to be affected by such legislation; they were not in condition for navigation, yet the resources of the contiguous country were so abundant as to call for transportation facilities, and those offered by railroads, if any at all, were totally inadequate.

Many communities needed light, fuel, and power for manufacturing purposes and the electric force and heat to extract from the air elements for fertilizers realized in the manufacture of calcium cyanamid or atmospheric nitrogen. Many other possibilities of profitable commerce appealed to private capital to develop power on those shoally streams. The lands belonged to private individuals; they were located in States which could charter corporations, authorize development of water power, tax them, and regulate their practices and charges, but those streams were all under the jurisdiction of the United States Government in so far as the right of navigation was concerned. The owners of the land were prohibited by law from obstructing those streams without the consent of Congress. It was to the interest of the public to secure navigation, which the Government could not, or would not, furnish on account of the high costs, and the owners of the property could not develop the water power and promote navigation without the consent of the Government, and would not do so unless the consent of the Government was granted on terms sufficiently attractive to invite capital to invest under the hope of reasonable profit. So the original legislation was framed to accomplish two objects; first and primarily to promote navigation on streams which otherwise would never be navigable. The navigation could be secured by inducing private capital to construct locks and dams in the same manner under the approval and direction of the War Department as they would be constructed by the Government if the Government would do the work at all; and, secondly, to permit the development of the resources and the progress of the industries of the countries through which those streams ran by encouraging the development of possible water power on those streams. Possibly the smallest use to which the water power would be devoted would be the generation and transmission of hydroelectricity, but even the value of that to the public would be incalculable. It is in every respect a successful competitor of all kinds of fuel, as it affords heat for warmth, cooking, and culinary purposes, and light more cheaply, more cleanly, more conveniently, and more safely than can be done by means of any other element or method.

Certain patriotic and benevolent persons, whose motives were no doubt good, obviously misunderstood the purposes of the general dam act, confounded it with the interests of the General Government in other respects, confused it with propositions connected with the public domain, and raised objections which have retarded progress and perhaps for many years banished capital from the country which, if encouraged in accordance with the purposes of the general dam act, would have secured the completion of many projects valuable to our people. In fact, a great many of the projects authorized by law have entirely failed on account of opposition, misguided and ill grounded as we believe. Other projects on which the investors have struggled against a rising tide of criticism and opposition, although in a measure completed, have proven unprofitable because markets have not been found for their light and power. In some cases when the investors sought to create a market by enlarging their plants through other developments they have been defeated in the effort and have thus failed to realize on their investments.

In reporting this bill to amend the general dam act we have tried faithfully to protect all the interests of the Government in every project for which the

consent of Congress may be granted, at the same time imposing such fair and moderate terms and conditions of the consent of Congress as may induce capital to relieve the Government of the expense of promoting navigation by furnishing the capital and constructing the works in the hope of reasonable returns on investments. We conceive the prime consideration of the Government to be the promotion of navigation, and we believe there are streams on which several thousands of miles of navigation can be promoted under the terms of this bill without any expense to the Government. Next to that our care has been to provide that the public shall be treated fairly by the grantees, and we have provided therefore for prompt and certain as well as just and reasonable regulation as to rates and practices; and to this end it is provided that if any State in which a project is chartered fails to protect the public by such regulation the Secretary of War shall do so.

We have not provided for any specific tax upon the business of the enterprise. If the Federal Government should conclude that it is necessary to take away from the States the matter of water power as an object of taxation, we consider that a proper and safe way to do that is for the Ways and Means Committee to report a bill for levying a uniform excise tax upon all water power, or hydroelectric development, or upon water-power sites developed or undeveloped. We have deemed that course proper in order to secure a bill that will promise development, which would be entirely prevented by adopting the other course. We have also provided against monopolies and combinations, and provided every precaution to protect not only the Government but the people of the United States in any possible contingency arising from operation of projects under this bill.

Yielding to the pressure from many directions we have included in the present bill authority for the Secretary of War to accommodate communities and derive some revenue for the Government from projects constructed wholly at the expense of the Government by leasing on satisfactory terms, with proper safeguards, the surplus water not needed for navigation at such projects. For the same reason we have also included a provision permitting the use of public lands for dam projects on terms to be prescribed by the Secretary of War where the structure proposed is to be in a navigable stream, for be it remembered that this bill deals only with portions of streams which are only theoretically navigable, but which could be made navigable, as we believe, under the operation of the legislation proposed.

Your committee has deemed it proper to print the bill, for convenience of examination and ready understanding, so marked and distinguished as to show the existing law brought forward and the new law proposed by the amendment.

Your committee will briefly analyze and state, as follows, the new provisions of this bill:

The bill reforms existing law by collocating and paragraphing all provisions relating to particular parts of the subject so that it may be more conveniently examined and understood. The changes in existing law are substantially as follows:

Section 2 provides that at the time of original approval the Secretary of War and the Chief of Engineers shall determine whether or not they shall require the owner, at his expense, to construct a lock as a part of that original project. If not then required, Congress may direct afterwards that a lock shall be installed at public expense, in which case title to land required for construction and power for building, operation, and maintenance may be required to be furnished by the owner of the dam.

Section 3 changes existing law so that the comprehensive plan required by the Secretary of War and the Chief of Engineers shall consider the use of water for all beneficial purposes and that plan shall be adopted which best utilizes the water resources of the region.

Section 4, paragraph (b), changes existing law by providing that the compensation required from the owner of the dam on account of benefits accruing because of head-water improvements, the erection of reservoirs, etc., shall be collected to an amount not exceeding 5 per cent per annum upon the total investment cost of such improvements to the United States, in addition to the annual expenses of maintenance of the head-water improvements, all of which shall be divided among all the dams on the streams receiving benefits from the increased flow, and shall be equitably apportioned among all the beneficiaries.

Paragraph (c) provides for payment to the United States for the use of any of its lands or property to an amount not exceeding 5 per cent of the value of the lands, as may be fixed by the Secretary of War and the Chief of Engineers. In fixing such charges there shall be considered the benefits to the interests of navigation as well as to the business of the owners of the project.

Paragraph (d) changes existing laws by providing that the United States may exact security for payment of such sums as may be required to restore the condition of the stream as to navigability as existed at the time of the approval of dam proposed, but that as a basis for action the Secretary of War and the Chief of Engineers must determine that navigation is injured by reason of the construction and operation of the dam.

Section 5 changes existing law in providing that in the use of the navigation facilities afforded by the construction of any dam the interests of navigation shall be paramount to the use of the dam for power.

Section 7 changes existing law in limiting the fine allowed to be imposed to exceed \$1,000; and if the unlawful maintenance and operation shall be such as to require a revocation, the court shall so provide in its decree and may determine the sale of the dam and its appurtenances to persons who must then operate it under the provisions of this act.

Section 8 is a new paragraph and provides that no dam constructed under this act shall be assigned or transferred except upon the written consent of the Secretary of War unless by a trust deed or a mortgage for financing the business, but that any successor or assignee, through foreclosure of such security, must hold the property subject to all the provisions of this act.

Section 9 changes existing law in providing that after the expiration of the term of 50 years that such term shall continue until compensation shall be paid to the owner for the fair value of his property.

Section 10 is new and provides that after the expiration of the term of 50 years the Secretary of War may terminate all rights by giving the owner one year's notice in writing and by taking over the property by the United States or by any person authorized by Congress. In taking over the property the United States or any person authorized by Congress must pay the fair value of the property, including the costs of the works required by the United States, and must assume the contracts for service entered into prior to the receipt of notice of termination, which shall have the approval of the duly constituted public authorities having jurisdiction of public utilities in that territory, provided that these contracts were entered into in good faith and at a reasonable rate. The fair value of the property and the reasonableness and good faith of the contracts shall be determined by an agreement between the Secretary of War and the owners of the property, and in the event of disagreement by proceedings in the district court of the United States having jurisdiction. In determining the value of the property no value shall be allowed for the consent of Congress granted according to this act nor for good will, profit in pending contracts, nor other conditions of current or prospective business.

Section 11 is a new section and provides that all rates for public service shall be just and reasonable and that discriminatory practices shall not be allowed. The bill provides that every rate and practice must be just and reasonable and every unjust or discriminatory charge is declared to be illegal. Whenever the Secretary of War shall be of the opinion that the rates or services are unjust, upon complaint and hearing, he is authorized to prescribe maximum rates and charges, and in case of the violation of the order of the Secretary of War the provisions as to forfeiture apply. For the purpose of rate making the value of the property may be considered in connection with the requirements for the expenditures required by the authorities of the United States. The Secretary of War is further authorized to fix these same conditions as part of his approval of the plans of any other project. This section provides that when any State in which a project is situated provides adequate regulation as to rates, charges, and service, and whenever such shall be established to the satisfaction of the Secretary of War, then the provisions of this section shall not apply. Any State may control the subject if it will only do its duty. If it fails to regulate, the Secretary of War will regulate.

Section 12 provides that the grantee shall commence the construction of the dam and accessory works within one year from the date of the approval of his plans and shall, within a further period of three years, complete and put into commercial operation such part of the development as the Secretary of War and the Chief of Engineers shall deem necessary to supply the available market.



If the dam and accessory works can not be completed within the further period of three years, the Secretary of War and the Chief of Engineers may, if the public interests will be promoted thereby, grant a further extension not exceeding two years; but as to the ultimate development for the service of the public, aside from the dam and accessory works, the Secretary of War and the Chief of Engineers may regulate such ultimate development and require facilities installed within such time as they may prescribe, and the orders of the Secretary of War and the Chief of Engineers shall be complied with in the time specified therein until such ultimate development shall be completed.

Section 13 provides that the right to alter, amend, or repeal is reserved whenever Congress determines the conditions of consent have been violated.

Section 14 is a new section authorizing the Secretary of War, with the approval of the Chief of Engineers, to lease to any applicant who has complied with the laws of the State in which the dam may be located any surplus power developed by a dam that is constructed or owned by the United States for the purposes of navigation. In making these leases preference shall be given to the applicant whose plan is approved by any act of Congress or by the Secretary of War and Chief of Engineers as best adapted to the interest of navigation or to conserve the water-power resources of the region. All such leases and the parties thereto and the terms and conditions thereof shall be reported annually to Congress.

Section 15 is new and prohibits any dam constructed under this act becoming a part of any trust or combination or entering into any contract to limit the output or distribution of electric power, but provides that current and power may be interchanged with other power companies so as to facilitate the giving of efficient service, such interchange to be made under rules and regulations to be prescribed by the Secretary of War.

Section 17 provides that all requirements of this act shall apply to dams already constructed and in operation.

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#### EXHIBIT 4.

[H. R. 16053, Sixty-third Congress, second session.]

A BILL To amend an act entitled "An act to regulate the construction of dams across navigable water," approved June twenty-first, nineteen hundred and six, as amended by the act approved June twenty-third, nineteen hundred and ten.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the act entitled "An act to regulate the construction of dams across navigable waters," approved June twenty-third, nineteen hundred and ten, be, and the same is hereby, amended to read as follows:

"SECTION 1. That when consent has been or may hereafter be granted by Congress, either directly or indirectly, through any duly authorized official or officials of the United States, to any person to construct and maintain a dam for water power or other purpose across or in any of the navigable waters of the United States, such dam shall not be built or commenced until the plans and specifications for such dam and all accessory works, together with such drawings of the proposed construction and such map of the proposed location as may be required for a full understanding of the subject, have been submitted to the Secretary of War and the Chief of Engineers for their approval, nor until they shall have approved such plans and specifications and the location of such dam and accessory works; and after such approval it shall not be lawful to deviate from such plans or specifications either before or after completion of the structure unless the modification of such plans or specifications has previously been submitted to and received the approval of the Chief of Engineers and of the Secretary of War.

"SEC. 2. That as a part of such approval such conditions and stipulations may be imposed as the Secretary of War and the Chief of Engineers may deem necessary to protect the present and future interests of the United States, which may include the condition that the persons constructing or maintaining such dam shall construct, maintain, and operate in connection therewith, without expense to the United States, a lock or locks, booms, sluices, or any other structure or structures which the Secretary of War and the Chief of Engineers or Congress then may deem necessary in the interests of navigation, in accordance with plans made a part of such approval; and also that in case such facilities of navigation shall not be made a part of such original approval and construc-

tion, whenever Congress shall deem such facilities necessary, the persons owning such dam shall convey to the United States, free of cost, title to such land as may be required for such constructions and approaches and shall grant to the United States free water power or power generated from water power for building and operating such constructions, and in such original approval, at the discretion of the Secretary of War and Chief of Engineers, may be required to maintain and operate such lock without expense to the United States.

"SEC. 3. That as a part of said approval the Secretary of War and the Chief of Engineers shall require that the plans, specifications, and location for any dam shall be such as shall be best adapted to a comprehensive plan for the improvement of the waterway in question for the uses of navigation and for the full development of its water power and for other beneficial purposes, and best adapted to conserve and utilize, in the interests of navigation and water-power development, the water resources of the region.

"SEC. 4. That as a part of the conditions and stipulations such approval shall provide—

"(a) For reimbursement to the United States of all expenses incurred by the United States with reference to the project, including the cost of any investigation necessary for the approval of the plans as heretofore provided, and for such supervision of construction as may be necessary in the interest of the United States.

"(b) For the payment to the United States of reasonable charges for the benefits which may accrue to such project through the construction, operation, and maintenance by the United States of headwater improvements, including storage reservoirs, on any such stream, such charges to be fixed from time to time by the Secretary of War and Chief of Engineers and to be based upon a reasonable compensation equitably apportioned among the grantee and others similarly situated upon the same stream receiving benefits by reason of increase of flow past their water-power structures artificially caused by such headwater improvements, the total charges to all such beneficiaries from any such headwater improvement not to exceed in any one year an amount equal to five per centum of the total investment cost, in addition to the necessary annual expense of the operation of such headwater improvement.

"(c) That in the construction, maintenance, and operation of such dam and accessory works there may be occupied and used such lands of the United States as may be necessary therefor, and in consideration thereof the owner of such dam shall pay to the United States such charges not to exceed an annual payment of five per centum of the fair value of such lands, as may be fixed by the Secretary of War and Chief of Engineers, and in fixing such charges consideration shall be taken of the benefits accruing thereby to the interests of navigation as well as to the business of such grantee.

"(d) For the payment or securing the payment to the United States of such sums and in such manner as the Secretary of War and the Chief of Engineers may deem reasonable and just substantially to restore conditions upon such stream as to navigability as existing at the time of such approval, whenever the Secretary of War and the Chief of Engineers shall determine that navigation would be injured by reason of the construction, maintenance, and operation of such dam and its accessory works.

"SEC. 5. That the operation of navigation facilities which shall be constructed as a part of or in connection with any such dam, whether at the expense of such grantee or of the United States, shall at all times be subject to such reasonable rules and regulations in the interest of navigation, including the control of the level of the pool caused by any such dam, as shall be made by the Secretary of War and Chief of Engineers, and in the use and operation of such navigation facilities the interest of navigation shall be paramount to the uses of such dam by such grantee for power purposes. Such rules and regulations may include the maintenance and operation by such grantee, at its own expense, of such lights and other signals as may be directed by the Secretary of War and Chief of Engineers and such fishways as shall be prescribed by the Secretary of Commerce, and for failure to comply with any such rule or regulation such grantee shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than \$500 for each month's default, in addition to other penalties herein prescribed or provided by law.

"SEC. 6. That the persons constructing, maintaining, or operating any dam or appurtenant or accessory works, in accordance with the provisions of this act, shall be liable for any damage that may be inflicted thereby upon private property, either by overflow or otherwise.

" SEC. 7. That any grantee who shall fail or refuse to comply with the lawful order of the Secretary of War, made in accordance with the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding \$1,000, and every month such grantee shall remain in default shall be deemed a new offense and subject such grantee to additional penalties therefor; and in addition to said penalties the Attorney General may, on request of the Secretary of War, institute proper proceedings in the district court of the United States in the district in which such structure or any of its accessory works may, in whole or in part, exist, for the purpose of having such violation stopped by injunction, mandamus, or other process; and any such district court shall have jurisdiction over all such proceedings and shall have the power to make and enforce all writs, orders, and decrees necessary to compel the compliance with the requirements of this act and the lawful orders of the Secretary of War and the performance of any condition or stipulation imposed under the provisions of this act; and if the unlawful maintenance and operation are shown to be such as shall require a revocation of all rights and privileges held under authority of this act, the court may decree such revocation. In case of such a decree, the court may wind up the business of such grantee conducted under the rights in question, and may decree the sale of the dam and all appurtenant property constructed or acquired under authority of this act, and may declare such dam and accessory works to be an unreasonable obstruction to navigation and cause their removal at the expense of the grantee owning or controlling the same, except when the United States has been previously reimbursed for such removal, or may provide for the sale of the dam and all accessory and appurtenant works constructed under authority of this act for the further development of water power, and may make and enforce such other and further orders and decrees as equity demands; and in case of such a sale for the further development of water power the vendee shall take the rights and privileges and shall perform the duties which belonged to the previous grantee, and shall assume such outstanding obligations and liabilities arising out of the maintenance and operation of said dam and accessory works for power purposes as the court may deem equitable in the premises.

" SEC. 8. That no property or project installed and operated under the provisions or benefits of this act shall be assigned or transferred except upon the written consent of the Secretary of War, except by trust deed or mortgage issued for the purpose of financing the business of such owner, and any successor or assign of such property or project, whether by voluntary transfer, judicial sale, or foreclosure sale or otherwise, shall be subject to all the conditions of the approval under which such rights are held, and also subject to all the provisions and conditions of this act to the same extent as though such successor or assign were the original owner hereunder.

" SEC. 9. That the rights herein granted shall continue for a period of fifty years from and after the date of the completion of the structure described in the original approval, and after the expiration of said fifty years such rights shall continue until compensation has been made to said grantee for the fair value of its property, as hereinafter provided.

" SEC. 10. That at any time after the expiration of said fifty years the Secretary may terminate the rights hereby granted upon giving to the owners thereof one year's notice in writing of such termination, and upon the taking over by the United States, or by any person authorized by Congress, of all of the property dependent in whole or in part for its usefulness upon the rights hereby granted, which shall include all necessary and appurtenant property created or acquired and valuable or serviceable in the distribution of water, or in the generation, transmission, and distribution of power, and all other property the value and usefulness of which would be destroyed or seriously impaired by such termination, and upon paying the fair value of said property together with the cost to the grantee of the lock or locks or other aids to navigation and all other capital expenditures required by the United States and assuming all contracts entered into prior to the receipt by it of said notice of termination which have the approval of the duly constituted public authority having jurisdiction thereof, or which were entered into in good faith and at a reasonable rate, in view of all the circumstances existing at the time such contracts were made. The fair value of said property and the reasonableness and good faith of such contracts shall be determined by agreement between the Secretary of War and the owners of such property, and in the event of their failure to agree, then by the proceedings instituted by the United States, or by any person authorized by Con-



gress, in the district court of the United States within which any portion of such dam may be located. In the determination of the value of said property upon the termination of said grant as above provided no value shall be claimed by or allowed for the consent hereby granted, nor for good will, profit in pending contracts, nor other conditions of current or prospective business.

"SEC. 11. That in all cases where the electric current generated from or by any of the projects provided for in this act shall enter into interstate or foreign commerce, the rates, charges, and service for the same to the consumers thereof shall be just and reasonable, and every unjust and unreasonable and unduly discriminatory charge, rate, or service therefor is hereby prohibited and declared to be illegal; and whenever the Secretary of War shall be of the opinion that the rates or charges demanded or collected on the service rendered for such electric current are unjust, unreasonable, or unduly discriminatory, upon complaint made therefor and full hearing thereon the Secretary of War is hereby authorized and empowered to determine and prescribe what shall be the just and reasonable rates and charges therefor to be observed as the maximum to be charged and the service to be rendered; and in case of the violation of any such order of the Secretary of War the provisions of this act relative to forfeiture and failure to comply shall apply. That in the valuation for rate-making purposes of the property existing under said approval of the project there may be considered any lock or locks, or other aids to navigation, and all other capital expenditures required by the United States.

"The Secretary of War is further authorized and directed to include among the conditions for his approval of any plans or any project herein provided, as an express condition thereof, a clause reserving to the Secretary of War the same rights, powers, and duties set forth in this section, together with the same penalty for violation thereof: *Provided*, That whenever the State in which such current shall be used shall have provided by law adequate regulation for rates, charges, and service to the consumers for such electric current and such regulation shall not be unduly discriminatory or unjust against the service or charges in any other State arising from the use of the power from the same project, and such facts shall be established to the satisfaction of the Secretary of War, then in such case the provisions of this section shall not apply to the rates, charges, and service in and for such State.

"SEC. 12. That the grantee shall commence the construction of the dam and accessory work within one year from the date of the approval herein provided, and shall thereafter, in good faith and with due diligence, prosecute such construction, and shall, within the further term of three years, complete and put in commercial operation such part of the ultimate development as the Secretary of War and the Chief of Engineers shall deem necessary to supply the reasonable needs of the then available market, and shall, from time to time thereafter, construct such portion of the balance of such ultimate development as said Secretary of War and Chief of Engineers may direct and within the time specified by said Secretary of War and Chief of Engineers so as to supply adequately the reasonable market demands until such ultimate development shall be completed; and extensions of the periods herein specified, not to exceed two years, may be granted by the Secretary of War, on recommendation of the Chief of Engineers, when in his judgment the public interest will be promoted thereby. In case the grantee shall not commence actual construction within the time herein prescribed, or as extended by the Secretary of War, then the authority as to such grantee shall terminate, and in case any dam and accessory works be not completed within the time herein specified or extended as herein provided, then the Attorney General, upon the request of the Secretary of War, shall institute proper proceedings in the proper district court of the United States for the revocation of said authority, the sale of the works constructed, and such other equitable relief as the case may demand, as provided for in section eight of this act.

"SEC. 13. That the right to alter, amend, or repeal this act is hereby expressly reserved as to any and all dams which may be authorized in accordance with the provisions of this act whenever Congress determines that the conditions of consent have been violated. In such case the United States shall incur no liability for the alteration, amendment, or repeal thereof to the owner or owners or any other persons interested in such dam.

"SEC. 14. That the Secretary of War, upon the advice and with the approval of the Chief of Engineers, may lease to any applicant having complied with the laws of the State in which the dam is constructed or to be constructed by the United States, the right to develop power from the surplus water over and

above that required for navigation at any navigation dam now or hereafter constructed, either with or without contribution by the applicant, and owned by the United States, and on such terms as may be deemed by the Secretary of War and Chief of Engineers for the best interests of the United States, and in awarding such lease preference shall be given to the applicant whose plans are deemed by any action of Congress or by the Secretary of War and Chief of Engineers to be best adapted to conserve and utilize in the public interest the navigation and water-power resources of the region, and all such leases and the parties thereto and the terms and conditions thereof shall be reported annually to Congress.

"SEC. 15. That no works constructed, maintained, and operated under the provisions of this act shall be owned, trusted, or controlled by any device or in any manner so that they may form a part of, or in any manner effect, a combination in the form of an unlawful trust or form the subject of an unlawful contract or conspiracy to limit the output of electric energy or in restraint of the generation, sale, or distribution of electric energy, or the exercise of any other business contemplated: *Provided, however,* That it shall be lawful under the approval of the Secretary of War for different grantees to exchange and interchange currents, to assist one another whenever necessary, by supplementing the currents or power, and enable any grantee to secure assistance to carry on the business and supply his customers, accounting therefor and paying therefor under regulations to be prescribed by the Secretary of War.

"In no case shall such an arrangement be permitted to raise the price, render unjust or unfair any practice, work, or discrimination, or operate in restraint of trade.

"SEC. 16. That the word 'persons' as used in this act shall be construed to import both the singular and the plural, as the case demands, and shall include corporations, companies, and associations. The word 'dam' as used in this act shall be construed to import both the singular and plural, as the case demands.

"SEC. 17. That all provisions in this act contained fixing conditions upon which the consent of Congress is granted for the construction of dams shall apply alike to all existing enterprises in operation or authorized, as well as to new projects to which the consent of Congress may hereafter be granted. All conflicting provisions contained in any act of Congress granting consent to the construction of any dam are hereby repealed, and all such previous authorizations are so altered, amended, and modified hereby as to conform to all of the conditions and provisions incorporated in this act."

#### EXHIBIT 5.

[H. R. 3, Sixty-fourth Congress, first session.]

**A BILL** To amend an act entitled "An act to regulate the construction of dams across navigable waters," approved June twenty-first, nineteen hundred and six, as amended by the act approved June twenty-third, nineteen hundred and ten.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the act entitled "An act to regulate the construction of dams across navigable waters," approved June twenty-third, nineteen hundred and ten, be, and the same is hereby, amended to read as follows:

"SECTION 1. That when consent has been or may hereafter be granted by Congress, either directly or indirectly through any duly authorized official or officials of the United States, to any persons to construct and maintain a dam for water power or other purposes across or in any of the navigable waters of the United States, and the consent of Congress is hereby granted to any person, natural or artificial, who may hereafter be authorized by the laws of the State in which it is proposed to construct a dam in any navigable stream, such dam shall not be built or commenced until the plans and specifications for such dam and all accessory works, together with such drawings of the proposed construction and such map of the proposed location as may be required for a full understanding of the subject, have been submitted to the Secretary of War and the Chief of Engineers for their approval, nor until they shall have approved such plans and specifications and the location of such dam

and accessory works; and after such approval it shall not be lawful to deviate from such plans or specifications either before or after completion of the structure unless the modification of such plans or specifications has previously been submitted to and received the approval of the Chief of Engineers and of the Secretary of War.

"SEC. 2. That as a part of such approval such conditions and stipulations may be imposed as the Secretary of War and the Chief of Engineers may deem necessary to protect the present and future interests of the United States, which may include the condition that the persons constructing or maintaining such dam shall construct, maintain, and operate in connection therewith, without expense to the United States, a lock or locks, booms, sluices, or any other structure or structures which the Secretary of War and the Chief of Engineers or Congress then may deem necessary in the interests of navigation, in accordance with plans made a part of such approval; and also that in case such facilities of navigation shall not be made a part of such original approval and construction, whenever Congress shall deem such facilities necessary, the persons owning such dam shall convey to the United States, free of cost, title to such land as may be required for such constructions and approaches, and shall grant to the United States free water power or power generated from water power for building and operating such constructions; and in such original approval, at the discretion of the Secretary of War and Chief of Engineers, may be required to maintain and operate such lock without expense to the United States; and in case of conflict between different sets of plans and specifications the Secretary of War and the Chief of Engineers shall approve the plan and specifications best adopted to serve the public interests and utilize and promote navigation and the water power and hydroelectric interests of the region.

"SEC. 3. That as a part of said approval the Secretary of War and the Chief of Engineers shall require that the plans, specifications, and location for any dam shall be such as shall be best adapted to a comprehensive plan for the improvement of the waterway in question for the uses of navigation and for the full development of its water power and for other beneficial public purposes, and best adapted to conserve and utilize, in the interests of navigation and waterpower development, the water resources of the region.

"SEC. 4. That as a part of the conditions and stipulations such approval shall provide—

"(a) For reimbursement to the United States of all expenses incurred by the United States with reference to the project, including the cost of any investigation necessary for the approval of the plans as heretofore provided, and for such supervision of construction as may be necessary in the interest of the United States.

"(b) For the payment to the United States of reasonable charges for the benefits which may accrue to such project through the construction, operation, and maintenance by the United States of headwater improvements, including storage reservoirs, on any such stream, such charges to be fixed from time to time by the Secretary of War and Chief of Engineers and to be based upon a reasonable compensation equitably apportioned among the grantee and others similarly situated upon the same stream receiving benefits by reason of increase of flow past their water-power structures artificially caused by such headwater improvements, the total charges to all such beneficiaries from any such headwater improvement not to exceed in any one year an amount equal to five per centum of the total investment cost, in addition to the necessary annual expense of the operation of such headwater improvement.

"(c) For the payment or securing the payment to the United States of such sums and in such manner as the Secretary of War and the Chief of Engineers may deem reasonable and just substantially to restore conditions upon such stream as to navigability as existing at the time of such approval, if the Secretary of War and the Chief of Engineers shall at the time of approval determine that navigation would be injured by reason of the construction, maintenance, and operation of such dam and its accessory works.

"SEC. 5. That the operation of navigation facilities which shall be constructed as a part of or in connection with any such dam, whether at the expense of such grantee or of the United States, shall at all times be subject to such reasonable rules and regulations in the interest of navigation, including the control of the level of the pool caused by any such dam, as shall be made by the Secretary of War and Chief of Engineers, and in the use and



operation of such navigation facilities the interests of navigation shall be paramount to the uses of such dam by such grantee for power purposes. Such rules and regulations may include the maintenance and operation by such grantee, at its own expense, of such lights and other signals as may be directed by the Secretary of War and Chief of Engineers, and such fishways as shall be prescribed by the Secretary of Commerce, and for failure to comply with any such rule or regulation such grantee shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than \$500 for each month's default, in addition to other penalties herein prescribed or provided by law.

"SEC. 6. That the persons constructing, maintaining, or operating any dam or appurtenant or accessory works, in accordance with the provisions of this act, shall be liable for any damage that may be inflicted thereby upon private property, either by overflow or otherwise.

"In case the land on which it is proposed to construct, maintain, and operate any dam in any navigable water in the United States or the land taken affected by overflow or backwater or damage in any other way shall belong to the United States, the grantee or person constructing, maintaining, and operating such dam shall purchase from the Secretary of the Interior such land or agree with him and pay such damages as may be inflicted, exactly as if the land belonged to any private person, and if in any such case the bed of the stream itself shall be the property of the United States settlement therefor shall be made with the Secretary of the Interior, who is hereby authorized to sell such land or settle such damage at a fair and reasonable price, and in case of a site for a dam and approaches and appurtenant works on the land taken or damaged by overflow or otherwise, or in case the bed of the stream shall be the property of the United States, on failure to agree with the Secretary of the Interior as to the price the amount shall be fixed in the same manner as if the owner were a private citizen. In either case consideration shall be taken, in fixing the amount to be paid, of the benefits accruing to the interests of navigation as well as to the business of such grantee: *Provided*, That no plans and specifications shall be approved nor any construction in accordance therewith permitted which would destroy, impair, or materially interfere with any works on the public domain in operation or in course of construction for the purpose of irrigation or other beneficial uses, or any light and power plant on the public domain constructed or in course of construction for the benefit of any municipality.

"SEC. 7. That any grantee who shall fail or refuse to comply with the lawful order of the Secretary of War, made in accordance with the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding \$1,000, and every month such grantee shall remain in default shall be deemed a new offense and subject such grantee to additional penalties therefor; and in addition to said penalties the Attorney General may, on request of the Secretary of War, institute proper proceedings in the district court of the United States in the district in which such structure or any of its accessory works may, in whole or in part, exist, for the purpose of having such violation stopped by injunction, mandamus, or other process; and any such district court shall have jurisdiction over all such proceedings and shall have the power to make and enforce all writs, orders, and decrees necessary to compel the compliance with the requirements of this act and the lawful orders of the Secretary of War and the performance of any condition or stipulation imposed under the provisions of this act; and if the unlawful maintenance and operation are shown to be such as shall require a revocation of all rights and privileges held under authority of this act, the court may decree such revocation. In case of such a decree, the court may wind up the business of such grantee conducted under the rights in question, and may decree the sale of the dam and all appurtenant property constructed or acquired under authority of this act, and may declare such dam and accessory works to be an unreasonable obstruction to navigation and cause their removal at the expense of the grantee owning or controlling the same, except when the United States has been previously reimbursed for such removal, or may provide for the sale of the dam and all accessory and appurtenant works constructed under authority of this act for the further development of water power, and may make and enforce such other and further orders and decrees as equity demands; and in case of such a sale for the further development of water power the vendee shall take the rights and privileges and shall perform the duties which belonged to the previous grantee, and shall assume such outstanding obliga-

tions and liabilities arising out of the maintenance and operation of said dam and accessory works for power purposes as the court may deem equitable in the premises.

" SEC. 8. That no property or project installed and operated under the provisions or benefits of this act shall be assigned or transferred except upon the written consent of the Secretary of War, except by trust deed or mortgage issued for the purpose of financing the business of such owner, and any successor or assign of such property or project, whether by voluntary transfer, judicial sale, or foreclosure sale or otherwise, shall be subject to all conditions of the approval under which such rights are held, and also subject to all the provisions and conditions of this act to the same extent as though such successor or assign were the original owner hereunder.

" SEC. 9. That the rights herein granted shall continue for a period of fifty years from and after the date of the completion of the dam, or of the lock and dam, if both are required, and after the expiration of said fifty years such rights shall continue until compensation has been made to said grantee for the fair value of its property, as hereinafter provided.

" SEC. 10. That at any time after the expiration of said fifty years the Secretary of War may terminate the rights hereby granted upon giving to the owners thereof one year's notice in writing of such termination, and upon the taking over by the United States, or by any person authorized by Congress, of all of the property dependent in whole or in part for its usefulness upon the rights hereby granted, which shall include all necessary and appurtenant property created or acquired and valuable or serviceable in the distribution of water, or in the generation, transmission, and distribution of power, and all other property the value and usefulness of which would be destroyed or seriously impaired by such termination, and upon paying the fair value of said property, together with the cost to the grantee of the lock or locks or other aids to navigation and all other capital expenditures required by the United States, and assuming all contracts entered into prior to the receipt by it of said notice of termination which have the approval of the duly constituted public authority having jurisdiction thereof, or which were entered into in good faith and at a reasonable rate, in view of all the circumstances existing at the time such contracts were made. The fair value of said property and the reasonableness and good faith of such contracts shall be determined by agreement between the Secretary of War and the owners of such property, and in the event of their failure to agree, then by proceedings instituted by the United States, or by any person authorized by Congress, in the district court of the United States within which any portion of such dam may be located. In the determination of the value of said property upon the termination of said grant as above provided no value shall be claimed by or allowed for the consent hereby granted, nor for good will, profit in pending contracts, nor other conditions of current or prospective business.

" SEC. 11. That in all cases where the electric current generated from or by any of the projects provided for in this act shall enter into interstate or foreign commerce, the rates, charges, and service for the same to the consumers thereof shall be just and reasonable, and every unjust and unreasonable and unduly discriminatory charge, rate, or service therefor is hereby prohibited and declared to be illegal; and whenever the Secretary of War shall be of the opinion that the rates or charges demanded or collected on the service rendered for such electric current are unjust, unreasonable, or unduly discriminatory, upon complaint made therefor and full hearing thereon the Secretary of War is hereby authorized and empowered to determine and prescribe what shall be the just and reasonable rates and charges therefor to be observed as the maximum to be charged and the service to be rendered; and in case of the violation of any such order of the Secretary of War the provisions of this act relative to forfeiture and failure to comply shall apply. That in the valuation for rate-making purposes of the property existing under said approval of the project there may be considered any lock or locks, or other aids to navigation, and all other capital expenditures required by the United States.

" The Secretary of War is further authorized and directed to include among the conditions for his approval of any plans or any project herein provided, as an express condition thereof, a clause reserving to the Secretary of War the same rights, powers, and duties set forth in this section, together with the same penalty for violation thereof: *Provided*, That whenever the State in which such current shall be used shall have provided by law adequate regulation for rates, charges, and service to the consumers for such electric current



and such regulation shall not be unduly discriminatory or unjust against the service or charges in any other State arising from the use of the power from the same project, and such facts shall be established to the satisfaction of the Secretary of War, then in such case the provisions of this section shall not apply to the rates, charges, and service in and for such State.

"SEC. 12. That the grantee shall commence the construction of the dam and accessory works within one year from the date of the approval herein provided, and shall thereafter, in good faith and with due diligence, prosecute such construction, and shall, within the further term of three years, complete and put in commercial operation such part of the ultimate development as the Secretary of War and the Chief of Engineers shall deem necessary to supply the reasonable needs of the then available market, and shall, from time to time thereafter, construct such portion of the balance of such ultimate development as said Secretary of War and Chief of Engineers may direct and within the time specified by said Secretary of War and Chief of Engineers so as to supply adequately the reasonable market demands until such ultimate development shall be completed; and extensions of the periods herein specified, not to exceed two years, may be granted by the Secretary of War, on recommendation of the Chief of Engineers, when, in his judgment, the public interest will be promoted thereby. In case the grantee shall not commence actual construction within the time herein prescribed, or as extended by the Secretary of War, then the authority as to such grantee shall terminate, and in case any dam and accessory works be not completed within the time herein specified or extended as herein provided, then the Attorney General, upon the request of the Secretary of War, shall institute proper proceedings in the proper district court of the United States for the revocation of said authority, the sale of the works constructed, and such other equitable relief as the case may demand, as provided for in section eight of this act.

"SEC. 13. That the right to alter, amend, or repeal this act is hereby expressly reserved as to any and all dams which may be authorized in accordance with the provisions of this act whenever Congress determines that the conditions of consent have been violated. In such case the United States shall incur no liability for the alteration, amendment, or repeal thereof to the owner or owners or any other persons interested in such dam.

"SEC. 14. That the Secretary of War, upon the advice and with the approval of the Chief of Engineers, may lease to any applicant having complied with the laws of the State in which the dam is constructed or to be constructed at the cost of the United States in improving rivers and harbors, the right to develop power from the surplus water over and above that required for navigation at any navigation dam now or hereafter constructed, either with or without contribution by the applicant, and owned by the United States, and on such terms as may be deemed by the Secretary of War and Chief of Engineers for the best interests of the United States, and in awarding such lease preference shall be given to the applicant whose plans are deemed by any action of Congress or by the Secretary of War and Chief of Engineers to be best adapted to conserve and utilize in the public interest the navigation and water-power resources of the region, and all such leases and the parties thereto and the terms and conditions thereof shall be reported annually to Congress.

"SEC. 15. That no works constructed, maintained, and operated under the provisions of this act shall be owned, trustee'd, or controlled by any device or in any manner so that they may form a part of, or in any manner effect, a combination in the form of an unlawful trust or from the subject of an unlawful contract or conspiracy to limit the output of electric energy or in restraint of the generation, sale, or distribution of electric energy, or the exercises of any other business contemplated: *Provided, however,* That it shall be lawful under the approval of the Secretary of War for different grantees to exchange and interchange currents, to assist one another whenever necessary, by supplementing the currents or power, and enable any grantee to secure assistance to carry on the business and supply his customers, accounting therefor and paying therefor under regulations to be prescribed by the Secretary of War.

"In no case shall such an arrangement be permitted to raise the price, render unjust or unfair any practice, work, or discrimination, or operate in restraint of trade.

"SEC. 16. That the word 'persons' as used in this act shall be construed to import both the singular and the plural, as the case demands, and shall include corporations, companies, and associations. The word 'dam' as used in this



act shall be construed to import both the singular and plural, as the case demands.

"SEC. 17. That all provisions in this act contained imposing conditions and obligations upon which the consent of Congress is granted for the construction of dams in navigable waters shall apply alike to all existing enterprises in operation or authorized in navigable waters, as well as to new projects in navigable waters to which the consent of Congress may hereafter be granted. All conflicting provisions contained in any act of Congress granting consent to the construction by private capital of any dam in navigable waters and all such previous authorizations are hereby so altered, amended, and modified as to conform to all of the conditions, obligations, and provisions incorporated in this act whenever the Secretary of War and the Chief of Engineers may deem it proper to impose them."

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#### EXHIBIT 6.

[House Report No. 404, Sixty-fourth Congress, first session.]

The committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 3331) to amend an act entitled "An act to regulate the construction of dams across navigable waters," approved June twenty-first, nineteen hundred and six, as amended by the act approved June twenty-third, nineteen hundred and ten, and to provide for the improvement and development of waterways for the uses of interstate and foreign commerce, having considered the same, report thereon with amendment and as so amended recommend that it pass.

Amend the bill as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That when consent or authority has been or may hereafter be granted by Congress, either directly or indirectly, through any duly authorized official or officials of the United States, to any persons to construct and maintain a dam for water power or other purpose across or in any of the navigable waters of the United States, such dam shall not be built or commenced until the plans and specifications for such dam and all accessory works, together with such drawings of the proposed construction and such map of the proposed location as may be required for a full understanding of the subject, have been submitted to the Secretary of War and the Chief of Engineers for their approval, nor until they shall have approved such plans and specifications and the location of such dam and accessory works; and after such approval it shall not be lawful to deviate from such plans or specifications either before or after completion of the structure unless the modification of such plans or specifications has previously been submitted to and received the approval of the Secretary of War and the Chief of Engineers. Such plans, specifications, and drawings shall be submitted within two years after the date of approval of the act authorizing the construction.

"SEC. 2. That as a part of such approval such conditions and stipulations may be imposed as the Secretary of War and the Chief of Engineers may deem necessary to protect the present and future interests of the United States, which may include the condition that the persons constructing or maintaining such dam shall construct, maintain, and operate in connection therewith, without expense to the United States, a lock or locks, booms, sluices, or any other structure or structures which the Secretary of War and the Chief of Engineers or Congress may deem necessary in the interests of navigation, in accordance with such plans as they may approve; and also that the persons owning such dam shall convey to the United States free of cost, title to such land as may be required for such constructions and approaches and shall grant to the United States free water power or power generated from water power for building and operating such constructions; and in such original approval, at the discretion of the Secretary of War and the Chief of Engineers, may be required to maintain, and location for any dam shall be such as, in the judgment of the Secretary of War shall provide, as a condition of such approval, for the diligent, orderly, and reasonable development and continuous operation of the water power, subject to market conditions, and may provide that the grantee shall at no time contract for the delivery to any one consumer of electrical energy in excess of fifty per centum of the total output, except upon the written consent of the Secretary of War.

"SEC. 3. That as a part of said approval the Secretary of War and the Chief of Engineers shall require that the project adopted and the plans, specifications, and location for any dam shall be such as, in the judgment of the Secretary of War and the Chief of Engineers, shall be best adapted to a comprehensive plan for the improvement of the waterway in question for the uses of navigation and for the full development of its water power and for other beneficial public purposes and best adapted to conserve and utilize in the interests of navigation and water-power development the water resources of the region. As between contesting applicants for approval of plans and specifications hereunder, preference shall be given to that applicant whose plans are best qualified to expedite such development and as between such contesting applicants, which appear equally well qualified in such respect, preference shall be given to that applicant which has first complied with the laws of the State or States in which such dam is to be constructed.

"SEC. 4. That in case of the development, generation, transmission, and use of power or energy under such approval in a Territory, or in two or more States, including leases under section nineteen hereof, the rates, charges, and service for the same to the consumers thereof shall be reasonable and just; and all unjust, unreasonable, or unjustly discriminatory charges, rates, or services are prohibited and declared to be unlawful, and the regulation and control of so much of the service and of charges for service to consumers as constitutes commerce between the States or in such Territory and of the issuance of stock and bonds by the grantee is hereby conferred upon the Secretary of War or committed to such body as may be provided by Federal statute; that in the valuation for rate-making purposes of the property existing under said approval of the project there may be considered any lock or locks or other aids to navigation, and all other capital expenditures required by the United States, but no value shall be claimed or allowed for the rights hereby granted for good will or any other intangible value: *Provided*, That the physical connection of plants or lines for the generation, distribution, and use of power or energy under this act or under approval made hereunder may be permitted, in the discretion of the Secretary of War, but combinations, agreements, arrangements, or understandings, express or implied, to limit the output of electrical energy, to restrain trade, or to fix, maintain, or increase prices for electrical energy or service are hereby prohibited.

"SEC. 5. That as a part of the conditions and stipulations such approval shall provide—

"(a) For reimbursement to the United States of all expenses incurred by the United States with reference to the projects, including the cost of any investigation necessary for the approval of the plans as heretofore provided, and for such supervision of construction as may be necessary in the interest of the United States.

"(b) For the payment to the United States of reasonable charges for the benefits which may accrue to such project through the construction, operation, and maintenance, in and about such streams, by the United States of headwater improvements of every kind, nature, and description, including storage reservoirs or forested watersheds or land owned, located, or reserved by the United States at the headwaters of any navigable stream for the development, improvement, or preservation of navigation in such stream in which such dam may be located. Such charges shall be fixed from time to time by the Secretary of War and Chief of Engineers, based upon a reasonable compensation equitably apportioned among the grantee and others similarly situated upon the same stream receiving benefits by reason of increase of flow past their water-power structures artificially caused by such headwater improvements, the total charges to all such beneficiaries from any such headwater improvement not to exceed in any one year an amount equal to five per centum of the total investment cost, in addition to the necessary annual expense of the operation of such headwater improvement.

"(c) That in the construction, maintenance, and operation of any project under this act for the promotion of navigation, the grantee may, with the consent of the Secretary of War, use and occupy, when necessary for carrying out the project, lands acquired by the United States through purchase or condemnation and any part of the public lands withdrawn by the President from entry or disposition for the sole purpose of promoting navigation, which the President may do, as provided in the act entitled 'An act to authorize the President of the United States to make withdrawal of public lands in certain cases,' approved June twenty-fifth, nineteen hundred and ten. For any of such



lands so used the grantee shall pay to the United States such reasonable charges as may be fixed by the Secretary of War.

" SEC. 6. That the right is hereby reserved to the United States to construct, maintain, and operate, in connection with any dam built in accordance with the provisions of this act, a suitable lock or locks, booms, sluices, or any other structures for navigation purposes, and the operation of any navigation facilities which shall be constructed as a part of or in connection with any dam built under the provisions of this act, whether at the expense of such grantee or of the United States, shall at all times be subject to such reasonable rules and regulations in the interest of navigation, including the control of the level of the pool caused by any such dam, as shall be made by the Secretary of War and the Chief of Engineers, and in the use and operation of such navigation facilities the interests of navigation shall be paramount to the uses of such dam by such grantee for power purposes. Such rules and regulations may include the maintenance and operation by such grantee, at its own expense, of such lights and other signals as may be directed by the Secretary of War and Chief of Engineers and such fishways as shall be prescribed by the Secretary of Commerce, and for failure to comply with any such rule or regulation such grantee shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than \$500 for each month's default, in addition to other penalties herein prescribed or provided by law.

" SEC. 7. That the grantee shall commence the construction of the dam and accessory works within one year from the date of the approval herein provided, and shall thereafter, in good faith and with due diligence, prosecute such construction, and shall, within the further term of three years, complete the dam and afterwards shall, within such times as the Secretary of War and the Chief of Engineers shall prescribe, put in commercial operation such part of the ultimate development as the Secretary of War and the Chief of Engineers shall deem necessary to supply the reasonable needs of the then available market, and shall, from time to time thereafter, construct such portion of the balance of such ultimate development as said Secretary of War and Chief of Engineers may direct and within the time specified by said Secretary of War and Chief of Engineers so as to supply adequately the reasonable market demands until such ultimate development shall be completed; and extensions of the periods herein specified, not to exceed two years, may be granted by the Secretary of War, on recommendation of the Chief of Engineers, when, in his judgment, the public interest will be promoted thereby. In case the grantee shall not commence actual construction within the time herein prescribed, or as extended by the Secretary of War, then the authority as to such grantee shall terminate, and in case any dam and accessory works be not completed within the time herein specified or extended as herein provided, then the Attorney General, upon the request of the Secretary of War, shall institute proper proceedings in the proper district court of the United States for the revocation of said authority, the sale of the works constructed, and such other equitable relief as the case may demand, as provided for in section fifteen of this act.

" SEC. 8. That without the written consent of the Secretary of War no sale or delivery of power shall be made to a distributing company, except in case of an emergency, and then only for a period not exceeding thirty days, nor shall any approval under this act be assigned or transferred without such written consent: *Provided, however,* That no grantee under this act shall create any lien upon any power project developed under an approval made under this act by mortgage or trust deed unless approved by the Secretary of War and for the bona fide purpose of financing the business of the grantee. Any successor or assign of such property or project, or of any rights accruing hereunder, whether by judicial sale, foreclosure sale, or otherwise, shall be subject to all the conditions of the approval under which such rights are held, and also subject to all the provisions and conditions of this act to the same extent as though such successor or assign were the original grantee hereunder.

" SEC. 9. That the rights granted herein shall continue for a period of fifty years from and after the completion of the dam or lock and dam, and shall be irrevocable except as herein provided, but may be declared null and void upon breach of any of the terms or conditions of approval: *Provided,* That such approval shall be made within or through any national forest or other reservation only upon a finding by the Secretary of the department under whose supervision such reservation falls that the development will not destroy, materially injure, or be inconsistent with the purpose for which said reservation was created or acquired.



"SEC. 10. That at any time after the expiration of said fifty years the United States may terminate the rights hereunder granted upon the giving to the grantee, either before or after the lapse of the period of the grant, of two years' notice in writing of such termination, and may take over the properties which are dependent, in whole or in part, for their usefulness on the continuance of such grant and which may have been acquired by any grantee acting under the provisions of this act, upon condition that it shall pay, before taking possession, first, the actual costs of the dam and locks and all other aids to navigation constructed under the approval of plans and specifications, rights of way, water rights, lands, and interests therein purchased and used by the grantee in the generation and distribution of electrical energy under the grant; and, second, the reasonable value of all other property taken over, including structures and fixtures acquired, erected, or placed upon the lands and included in the generation or distribution plant and which are dependent as hereinabove set forth, such reasonable value to be determined by mutual agreement between the Secretary of War and the grantee or owners of such property, and in case they can not agree by proceedings instituted for that purpose in the United States district court for the district in which said property or some part thereof is situated, but in no case shall the amount exceed the actual cost; *Provided*, That such reasonable value shall not include or be affected by the value of the franchise or good will or profits to be earned on pending contracts or any other intangible element: *Provided further*, That in case of war or other emergency to be judged by the Secretary of War the United States shall have the right hereby reserved to requisition and take possession of any or all of said property and operate the same for its own use and benefit as long as the necessity of emergency continues, and compensation for such use and occupation shall be determined and paid as heretofore provided in this section.

"SEC. 11. That in the event the United States does not exercise its right to take over, maintain, and operate the properties as provided in section ten hereof the Secretary of War may renew the approval of plans and specifications, either original or modified, upon such terms and conditions and for such periods as may be authorized under the applicable laws that may be in force at that time, or the Secretary of War is authorized, upon the expiration of any grant under this act, to approve terms and conditions under which a new grantee may operate such properties for such periods as applicable laws may then authorize upon the former condition that the new grantee shall pay the original grantee for the properties as provided in section ten of this act.

"SEC. 12. That where, in the judgment of the Secretary of War, the public interest requires or justifies the execution by any grantee of contracts for the sale and delivery of water power or electrical energy for periods extending beyond the life of the grant, but for not more than twenty years thereafter, such contracts may be entered into upon the approval of the said Secretary, and thereafter, in the event of the exercise by the United States of the option to take over the plant in the manner provided in either section ten or eleven hereof, the United States or its new grantee shall assume and fulfill all such contracts.

"SEC. 13. That the persons constructing, maintaining, or operating any dam or appurtenant or accessory works in accordance with the provisions of this act shall be liable for any damage that may be inflicted thereby upon private property, either by overflow or otherwise, and the United States shall in no event be liable therefor. The promotion of navigation for the benefit of interstate commerce being the paramount purpose and consideration for this legislation and the improvement contemplated therein, any grantee hereunder failing to secure necessary property rights, easements, and agreements by contract may acquire all such rights, either to use or damage any dam sites, lock sites, lands, or property of others necessary to the construction, maintenance, or operation of any such dam or diversion structure or of the works appurtenant or accessory thereto by the exercise of the right of eminent domain by condemnation proceedings in the district court of the United States for the district in which such land or other property may be located or in the State courts. The practice and procedure in any action or proceeding brought for that purpose in the district court of the United States shall conform as nearly as may be with the practice and procedure in similar actions or proceedings in the courts of the State where the property is situated.

"SEC. 14. That in case of the development, generation, transmission, or use of power or energy under an approval given under this act, including leases under section nineteen hereof, wholly within a State which has not provided a com-

mission or other authority having adequate power to regulate rates, charges, and service to the consumers of electrical energy and the issuance of stock and bonds by public-utility corporations engaged in power development, transmission, and distribution, the control of rates, service, and charges to consumers and stock and bond issues shall be vested in the Secretary of War or committed to such body as may be authorized by Federal statutes until such time as the State shall provide a commission or other authority for such adequate regulation and control: *Provided*, That the control of the Secretary of War or other Federal authority shall cease and determine as to each specific matter of control described in this section so soon as the State shall have provided a commission or other authority for the regulation and control of that specific matter.

" SEC. 15. That any grantee who shall fail or refuse to comply with the lawful order of the Secretary of War, made in accordance with the provisions of this act, shall be deemed guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine not exceeding \$1,000, and every month such grantee shall remain in default shall be deemed a new offense and subject such grantee to additional penalties therefor; and in addition to said penalties the Attorney General may, on the request of the Secretary of War, institute proper proceedings in the district court of the United States in the district in which such structure or any of its accessory works may, in whole or in part, exist, for the purpose of having such violation stopped by injunction, mandamus, or other process; and any such district court shall have jurisdiction over all such proceedings and shall have the power to make and enforce all writs, orders, and decrees necessary to compel the compliance with the requirements of this act and the lawful orders of the Secretary of War and the performance of any condition or stipulation imposed under the provisions of this act; and if the unlawful maintenance and operation are shown to be such as shall require a revocation of all rights and privileges held under authority of this act, the court may decree such revocation. In case of such a decree, the court may wind up the business of such grantee conducted under the rights in question and may declare such dam and accessory works to be an unreasonable obstruction to navigation and cause their removal at the expense of the grantee owning or controlling the same, or may provide for the sale of the dam and all accessory and appurtenant works constructed under authority of this act for the further development of water power, and may make and enforce such other and further orders and decrees as equity demands; and in case of such a sale for the further development of water power the vendee shall take the rights and privileges and shall perform the duties which belonged to the previous grantee and shall assume such outstanding obligations and liabilities arising out of the maintenance and operation of such dam and accessory works for power purposes as the court may deem equitable in the premises.

" SEC. 16. That the Secretary of War is hereby authorized to examine books and accounts of grantees and to require them to submit statements, representations, or reports including information as to capitalization, cost of locks, dams, and other aids to navigation, water rights, lands, easements, and other property acquired, production, use, distribution, and sale of power or energy, all of which statements, representations, or reports so required shall be upon oath, unless otherwise specified, and in such form and upon such blanks as the Secretary of War may require; and any person making any false statement, representation, or report under oath shall be subject to punishment as for perjury.

" SEC. 17. That each approval under this act shall be conditioned upon the acceptance by the grantee of all the terms and conditions of this act and of terms and conditions specified in the approval, which acceptance shall be expressed in the approval as a part of the contract entered into, and that nothing in this act shall be construed as affecting or intended to affect or to in any way interfere with the laws of any State relating to the control, appropriation, use, or distribution of water except as related to the purposes of navigation.

" SEC. 18. That the right to alter, amend, or repeal this act is hereby expressly reserved as to any and all dams which may be authorized in accordance with the provisions of this act. In such case the United States shall incur no liability for the alteration, amendment, or repeal thereof to the owner or owners or any other persons interested in such dam.

" SEC. 19. That the Secretary of War be, and he is hereby, authorized to enter into leases for the use of surplus water and water power generated at dams and works constructed wholly or in part by the United States in the interests of navigation at such rates or on such terms and conditions, and for such periods



of time not to exceed fifty years, and with such provision for the periodical readjustment of rentals as may seem to him just, equitable, and expedient, subject, however, to the provisions of this act governing the authorization, maintenance, and operation of power plants and to all regulations governing the use and disposition of the power, so far as the same may be applicable; and all such leases, the parties thereto and the terms and conditions thereof shall be reported annually to Congress: *Provided*, That the said Secretary of War, in making such leases, other conditions being equal, shall give preference to the bid solely for municipal use of any municipal corporation or other public corporation not operated for profit.

"SEC. 20. That the provisions of this act shall not be construed as revoking or affecting any permits or valid existing rights of way heretofore given or granted pursuant to law, but at the option of the grantee any grant heretofore given for the development, generation, transmission, or utilization of power may be surrendered and the grantee given a grant for the same premises under the provisions of this act.

"SEC. 21. That the provisions of this act shall not apply to irrigation or power dams or grants to municipal corporations affecting the use of water or water power for municipal purposes or other projects under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture upon the public lands of the United States."

Amend the title so as to read:

"To amend an act entitled 'An act to regulate the construction of dams across navigable waters,' approved June twenty-first, nineteen hundred and six, as amended by the act approved June twenty-third, nineteen hundred and ten."

Before acting on the subject matter of the bill herewith reported the committee gave long, thorough, and patient attention to every phase of the subject, considered all the different views and shades of opinion entertained and advanced by many people who have discussed the question from various angles and viewpoints. The committee has endeavored to find a true basis or common ground on which those entertaining various and divergent views on minor details might agree in order that legislation might be secured and progress promoted toward the accomplishment of the purposes of the bill.

It was not the original intent of those who conceived and framed the general dam act to deal with all water power, nor all questions affecting water powers, nor was it originally intended to deal with questions affecting water-power sites on the Government public lands, nor with projects promoted by the Government at the expense of the Treasury for the promotion of navigation solely, though incidentally providing in many cases magnificent heads of water for the generation of power and hydroelectricity. There were many thousands of miles of shoaly streams affording sufficient water to maintain navigation if the water could be controlled, canalized, and thrown into slack-water pools. The cost of such work, if undertaken by the Government, to promote navigation only would obviously be prohibitive. No commerce was borne upon the streams or the parts thereof to be affected by such legislation. They were not in condition for navigation, yet the resources of the contiguous country were so abundant as to call for transportation facilities, and those offered by railroads, if any at all, were totally inadequate.

Many communities needed light, fuel, and power for manufacturing purposes, and the electric force and the heat to extract from the air elements for fertilizers realized in the manufacture of calcium cyanamid or atmospheric nitrogen. Many other possibilities of profitable commerce appealed to private capital to develop power on those shoaly streams. The lands belonged to private individuals; they were located in States which could charter corporations, authorize the development of water power, tax them, and regulate their practices and charges; but those streams were all under the jurisdiction of the United States Government in so far as the right of navigation was concerned. The owners of the land were prohibited by law from obstructing those streams without the consent of Congress. It was to the interest of the public to secure navigation, which the Government could not, or would not, furnish on account of the high cost, and the owners of the property could not develop the water power and promote navigation without the consent of the Government, and would not do so unless the consent of the Government was granted on terms sufficiently attractive to invite capital to invest under the hope of reasonable profit. So the original legislation was framed to accomplish two objects—first, and primarily, to promote navigation on streams which otherwise would never be navigable. The navigation could be secured by inducing private capital to



construct locks and dams in the same manner under the approval and direction of the War Department as they would be constructed by the Government, if the Government would do the work at all. And, secondly, to permit the development of the resources and the progress of the industries of the country through which those streams ran by encouraging the development of possible water power on those streams. Electric lighting, the operation of trolley cars, and, to a limited extent, the operations of machinery are familiar to all, but all of those uses require very small development. Electricity is a successful competitor of all kinds of fuel as it affords heat for houses, and cooking, all of which, as well as electric lighting, are cheaper, cleaner, and more convenient and safer than any other means, element, or method. The great desideratum, however, is the fact that the proposed development of hydroelectricity will promote industries to an unlimited extent along all of the navigable shoally streams, most important among which will be the production of atmospheric nitrogen for the benefit of the War Department and all of the farmers who use artificial fertilizers to take the place of the expensive nitrates for which we now pay to Chile annually \$22,000,000, and then secure an insufficient supply at high prices, augmented by an export tax of \$11 a ton paid to Chile. In case our Republic should be engaged in a great war, or Chile should lay an embargo on exporting nitrates, our Government would be seriously embarrassed. In addition to furnishing the War Department, our farmers could be supplied at home with nitrates in larger quantities and at a much lower price and with greater certainty of a constant supply. In addition to that the hydroelectric furnace reduces the phosphate rock, so plentiful in many of the States, supplying the farmers with this element of fertilizer at far lower rates and by a much more satisfactory method than the expensive plan of reduction by sulphuric acid. The hydroelectric furnaces erected at these dams would also supply our country and the Government with steel of a quality superior and much cheaper than that produced by the old, obsolete, crucible method. By the same electric furnace the people may be supplied with aluminum much more cheaply and conveniently than now. The same electric furnace will extract from common salt the soda and the bleaching powders. All of these desirable conditions could have already been secured by liberal inducements to the investment of capital without relinquishing any necessary and reasonable restriction to protect the people in practices and charges. Inasmuch as Congress failed to afford such inducements capital seeking investment on our own rivers has gone to Canada and Norway, and now raw material from our own country is being shipped there and the finished product returned to be used by our people, who pay the freight both ways, as well as an additional high profit.

Some people obviously misunderstood the purposes of the general dam act, confounded it with the interests of the General Government in other respects, confused it with propositions connected with the public domain, and raised objections which have retarded progress and perhaps for many years banished capital from the country. In fact a great many of the projects authorized by law have entirely failed of completion and success on account of opposition. Other projects on which the investors have struggled against a rising tide of criticism and opposition, although in a measure completed, have proven unprofitable because markets have not been found for their light and power. In some cases when the investors sought to create a market by enlarging their plants through other developments they have been defeated in the effort and have thus failed to realize on their investments. In some cases they failed to secure renewals when the periods of their grants had expired without fault on their part.

In reporting this bill to amend the general dam act we have tried faithfully to protect all the interests of the Government in every project for which the consent of Congress may be granted, at the same time imposing such fair and moderate terms and conditions of the consent of Congress as may induce capital to relieve the Government of the expense of promoting navigation, and to supply the public with essential elements of prosperity by furnishing the capital and constructing the works in the hope of reasonable returns on investments. We conceive the prime consideration of the Government to be the promotion of navigation, and we believe there are streams on which several thousands of miles of navigation can be promoted under the terms of this bill without any expense to the Government. Next to that our care has been to provide that the public shall be treated fairly by the grantees, and we have provided therefore for prompt and certain as well as just and reasonable regulation as to rates and practices; and to this end it is provided that if any State in which a project

is chartered fails to protect the public by such regulation the Secretary of War shall do so.

We have not provided for any specific tax upon the business of the enterprise. If the Federal Government should conclude that it is necessary to take away from the States the matter of water power as an object of taxation, we consider that a proper and safe way to do that is for the Ways and Means Committee to report a bill for levying a uniform excise tax upon all water power, or hydroelectric development, or upon water-power sites developed or undeveloped. We have deemed that course proper in order to secure a bill that will promise development, which would be entirely prevented by adopting the other course. We have also provided against monopolies and combinations, and provided every precaution to protect not only the Government but the people of the United States in any possible contingency arising from the operation of projects under this bill.

Yielding to the pressure from many directions, we have included in the present bill authority for the Secretary of War to accommodate communities and derive some revenue for the Government by leasing on satisfactory terms with proper safeguards the surplus water not needed for navigation at such projects. For the same reason we have also included a provision permitting the use of public lands for dam projects on terms to be prescribed by the Secretary of War where the structure proposed is to be in a navigable stream, for be it remembered that the inviting sites to develop water power are usually on the portion of streams which are only theoretically navigable, but which can be easily made navigable by the erection of dams and locks. Where there is no fall nor shoal the stream may already be in perfect condition for navigation, but would afford no opportunity for water power. On the other hand, the best places for water power, which on a casual glance would offer insuperable obstacles to navigation, are easily made navigable by erecting dams and locks, which, according to this bill, would be done without cost to the Government and at the same time insure to the public all the conveniences and blessings hereinbefore enumerated.

The committee has deemed it proper to print the bill, for convenience of examination and ready understanding, so marked and distinguished as to show the existing law brought forward and the new law proposed by the amendment, and the sources from which each new suggestion is derived.

The substitute reported herewith proposes to reform the existing law by collocating and paragraphing all provisions relating to particular parts of the subject, so that they may be more conveniently examined and understood.

Section 1 reenacts existing law.

Section 2 modifies existing law by providing that the Secretary of War shall require diligent, orderly, and reasonable development and continuous operation of water power; and limits the delivery to one consumer to not more than 50 per cent of the total output.

Section 3 modifies existing law by adding that as between contesting applicants preference shall be given to the applicant whose plans are best qualified to expedite such development; and between contesting applicants preference shall be given to the one first complying with the laws of the State in which the dam is to be constructed; also requires the construction and use of water power for all beneficial purposes and adoption of the plan which best utilizes the resources of that region.

Section 4 provides that in interstate-commerce rates, charges, and service shall be reasonable and just, and not unreasonably and unjustly discriminatory, and that the regulation and control thereof, as well as the issuance of stocks and bonds, is conferred upon the Secretary of War, or such other body as Congress may direct. That in passing on rates any lock or locks, or other aids to navigation required by the United States may be considered, but no value claimed for the rights granted by the consent of Congress nor for good will nor any other intangible value. It also provides for the physical connection of plants in order that they may interchange business on fair terms, to be approved by the Secretary of War, when necessary, but combinations, agreements, and arrangements, express or implied, to limit the output, restrain trade, fix, maintain, or increase prices are prohibited.

Section 5 provides conditions of approval of plans and specifications. (a) To reimburse expenses incurred, cost of investigation, supervision of construction, etc.: (b) payment for benefits of headwater improvements and storage dams: (c) provides for acquiring any land of the United States that it may be necessary to occupy or damage.



Section 6 reserves to the United States the right to construct, maintain, and operate locks, booms, sluices, or other constructions for navigation in connection with any dam in case it is not required in the original approval, and also the right to control the level of the pool and all navigation facilities and make rules for such purposes, including the requirement of lights and other signals, and prescribes a penalty for failure to comply with such regulations.

Section 7 fixes the periods of commencement and completion, with provision in certain emergencies for extension of such periods, and authorizes the Secretary of War to direct and control the order and method of construction and commercial operation according to circumstances and conditions existing at the time, and provides for terminating the Government's consent in connection with the matter on failure to commence within the time limit.

Section 8 prohibits the delivery of power to a distributing company, except in certain emergencies and for 30 days, and prohibits any assignment of the rights arising under the consent granted without the written consent and approval of the Secretary of War, and prohibits the creation of any lien, except by the approval of the Secretary of War, for financing the business, and provides that any successor or assignee takes under the original conditions and terms prescribed in the original approval.

Section 9 limits the period of the grant to 50 years from completion of a dam, or lock and dam, irrevocable for such period as herein provided, but may be declared null and void upon breach of any of the terms and conditions of the approval. No approval in any national forestry or other reservation, unless the Secretary of the department having jurisdiction shall find that the development will not destroy, injure, or be inconsistent with the purpose of such reservation.

Section 10 provides that the United States may terminate all rights under the consent after the expiration of 50 years by giving 2 years' notice, either before or after the lapse of the period, and may take over the properties by paying the actual cost of the dam and locks and other aids to navigation, rights, lands, and interests therein, and a reasonable value for all other property, and provides a method of reaching the amount to be paid, such value not to be affected by the franchise, good will, or profits, nor in any case exceed the actual cost. That in case of war or other emergency the United States may take over, temporarily, all of the property and operate it as long as the emergency continues, compensation to be made for such temporary use as provided in this section.

Section 11 provides that if the Government does not exercise its right to take over the property the Secretary of War may renew the approval of plans and specifications, either original or modified, upon terms and conditions authorized by law existing at the time, or may approve plans and specifications for a new grantee, who shall pay the original grantee as provided in section 10.

Section 12 provides that the Secretary of War may approve contracts running beyond the period of the grant, and that in case of any future changes in the ownership those contracts shall be carried out.

Section 13 provides that the person constructing the dam shall be liable for all damage inflicted and the United States in no event shall be liable. Also provides condemnation proceedings and the method therefor.

Section 14 provides for regulation of rates and practices by the Secretary of War when any State in which such structure is situated shall fail to provide any such regulation.

Section 15 provides penalties for failure to comply with terms and conditions or the lawful orders of the Secretary of War, and that when a sale occurs to a new owner under process of law the new owner takes under all the terms and conditions and obligations of the original grantee.

Section 16 provides for the examination of books and accounts and all information connected with the business and provides for punishment for false statement.

Section 17 provides that the grantee shall accept all of the conditions of the approval, which shall be expressed as a part of the contract entered into. Nothing, however, shall interfere with the laws of any State relating to the control and distribution and use of water, except for the purpose of promoting navigation.

Section 18 reserves the right to alter, amend, or repeal without liability on the part of the United States.

Section 19 regulates the method to be pursued by the War Department in leasing the power at dams erected in whole or in part by the Government itself. It contains substantially the same provisions passed by the House two years



ago and continues the method existing as to Government dams for many years, under which the War Department has satisfactorily regulated and leased surplus water at a number of such structures. The War Department reports to the committee that the pending section would regulate the sale of power at quite a number of dams located in the States of Alabama, Arkansas, Kentucky, Minnesota, New York, and Tennessee. The United States is entitled to receive the largest reasonable revenues accruing from the expenditure of its own money, and the method provided by this section insures this result and prevents injustice and favoritism.

Section 20 prohibits such construction of this act as would revoke or affect any existing terms or rights heretofore granted, but permits any such grantee to surrender his rights under the original grant and take a grant of consent for the same purposes under this act.

Section 21 provides this act shall not interfere with irrigation, power dams, or the use of water for municipal purposes or other projects under the Secretary of the Interior or the Secretary of Agriculture on the public lands of the United States.

The committee believes that the passage of the substitute reported herewith would insure development and progress and at the same time protect the interests of the Government and the interests and rights of the people.

Respectfully submitted.

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### EXHIBIT 7.

#### THE RAYBURN BILL.

SEC. 2. That the act to regulate commerce as amended be further amended by inserting therein a new section, to be designated section twenty a, to be placed after section twenty and before section twenty-one, to read as follows:

"SEC. 20a. That from and after the passage hereof it shall be unlawful for any common carrier subject to the act to regulate commerce, as amended, to issue any capital stock or certificate of stock or any bond or other evidence of interest in or indebtedness of the carrier (hereinafter collectively termed 'securities'), or to assume any obligation or liability as lessor of another carrier, or as lessee, guarantor, surety, or otherwise in respect of the securities of any other person, natural or artificial, if connected with or relating to that part of the business of such carrier governed by the act to regulate commerce, as amended, even though permitted by the authority creating the carrier corporation—

"(a) Unless it be for some purpose within its corporate powers and in the public interest, necessary or appropriate to the proper performance of its service for the public, and not intending to impair the financial ability of the carrier to discharge its duty to the public; and

"(b) Unless and until, and then only to the extent that, upon application by the carrier, and after investigation by the commission of the purposes and uses of the issue and the proceeds thereof, such issue is approved by order of the commission as reasonably necessary or appropriate for the purposes stated.

"Each such application shall be made in such form as the commission may from time to time determine and prescribe, and shall set forth such matters as the commission may require, including:

"First. (a) The total amount of proposed issue and how authorized by or on behalf of the carrier;

"(b) The number and amount of all of its securities outstanding at any time prior to the date of such application, the amount thereof retired prior to said date, the amount thereof then undisposed of, and whether such amount is held in the treasury of the corporation as a free asset or pledged, and, if pledged, the terms and conditions of such pledge;

"(c) The number and amount of securities then to be issued, and whether to be sold, pledged, or held in the treasury of the corporation as a free asset, or otherwise disposed of or applied, as the case may be, specifying number and amount in each case; if any such securities are to be sold, the terms and conditions of sale; if any part of the consideration to be received therefor is other than money, an accurate and detailed description of such consideration; if any such securities are to be pledged, the terms and conditions of pledge; or

if other disposition or application is to be made, a full and detailed explanation thereof;

"(d) The number and amount of its securities so authorized, but not then to be issued;

"(e) If the issue is of shares of stock, the number thereof, the face or par value thereof, if any, specifying whether common or preferred, and the number and kinds of then outstanding shares previously issued.

"Second. The preferences or privileges granted to the holders of any such securities; the dates of maturity, rates of interest, or fixed dividend, whether cumulative or not, and any conservation rights granted to the holders thereof, and the price, if any, at which any such securities may be retired or redeemed.

"Third. The purposes to which the proceeds of the issue are to be devoted, in such detail as the commission may require.

"Fourth. In case of proposed assumption of any obligation or liability in respect of the securities of any other person, natural or artificial, like showing shall be made as to the financial condition of said other person, as also of the objects sought and benefits to be realized by the carrier from such assumption, to be accompanied by copies of any agreements or contracts therefor.

"Every application for authority, as also every certificate of notification hereinafter provided for, shall be made out under oath, signed, and filed on behalf of the carrier by its president, a vice president, auditor, comptroller, or other executive officer having knowledge of the matters therein set forth and duly designated for that purpose by the carrier.

"Whenever any securities set forth and described in any application for authority or certificate of notification as pledged or held as a free asset in the treasury of the carrier shall, subsequent to the filing of such application or certificate, be sold, pledged, repledged, or otherwise disposed of by the carrier, such carrier shall, within ten days after such sale, pledge, repledge, or other disposition, file a certificate of notification to that effect, setting forth therein all such facts as are required by subdivision (c) of the foregoing first paragraph, or as may be required by the commission.

"Upon application to the commission for approval of proposed issues of securities the commission shall cause notice to be given to the railroad commission or public service or utilities commission, or other appropriate authority, of each State in which the applicant carrier operates. The railroad commission, public service or utilities commission, or other appropriate State authority thus notified shall have the right to present before the commission such representations as they may deem just and proper for preserving and conserving the right and interests of their people and the States, respectively, as involved in such proceeding. The commission may hold hearings, if it sees fit, to enable it to determine its decision upon the application for authority.

"Nothing herein shall be construed to imply any guaranty or obligation as to such issues on the part of the United States.

"The foregoing provisions of this section 20a shall not apply to notes to be issued by any said carrier maturing not more than two years after the date thereof and aggregating not more than five per centum at any time of the securities of said carrier then outstanding. Within ten days after the date of such notes the carrier issuing the same shall file with the commission a certificate of notification, in such form as may from time to time be determined and prescribed by the commission, setting forth as nearly as may be the same matters as those required in respect of applications for authority to issue other securities.

"The commission shall require periodical or special reports from all carriers hereafter issuing any securities, including such notes, which shall show, in such detail as the commission may require, the disposition made of said securities and the application of the proceeds thereof.

"All issues of securities contrary to the provisions of this section may be enjoined by any court of competent jurisdiction at the suit of the United States, or of any director, officer, or stockholder of the carrier proposing to make the issue; and any director, officer, attorney, or agent of such corporation who assents to, or concurs in, any issue of securities forbidden by this section 20a shall upon conviction be punished by a fine of not less than \$1,000 nor more than \$10,000, or by imprisonment for not less than one year nor more than three years, or by both such fine and imprisonment, in the discretion of the court.

"From and after two years from the passage hereof it shall be unlawful for any person to hold the position of officer or director of more than one carrier

subject to the act to regulate commerce, as amended, unless such holding shall have been authorized by order of the commission, upon due showing, in form and manner prescribed by the commission, that neither public nor private interest will be adversely affected thereby. From and after the passage hereof it shall be unlawful for any officer or director of any such carrier to receive for his own benefit, directly or indirectly, any money or thing of value, in respect of the negotiation, hypothecation, or sale of any securities issued or to be issued by said carrier, or to share in any of the proceeds thereof, or to participate in the making or paying of any dividends of an operating carrier from any funds properly included in capital account, or otherwise than from the revenues of said carrier. Any violation of these provisions shall be a misdemeanor, and on conviction in any United States court having jurisdiction shall be punished by a fine not exceeding \$10,000 or imprisonment for a term not exceeding three years, or by both such fine and imprisonment, in the discretion of the court."

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#### EXHIBIT 8.

[House Report No. 349, Sixty-fourth Congress, first session.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 563), to amend section 20 of an act to regulate commerce, to prevent overissues of securities by carriers, and for other purposes, having considered the same, report thereon with an amendment and as so amended recommend that it pass.

#### APPROVAL BEFORE ISSUE.

We now come to the second part of the amendment to section 20, that of the control of the issues of stocks and bonds and other securities of railroads and the approval of the Interstate Commerce Commission before any issues of stocks and bonds or other evidences of indebtedness may be made. Much has been said of late years concerning and much proper criticism has come from the public in regard to the overissue of stocks and bonds and overcapitalization of railroads, and many abuses along this line have brought us to believe that legislation along this line is absolutely necessary at this time. Commissioner Clements in his testimony before the Committee on Interstate and Foreign Commerce substantially says:

"I have believed for a good many years that there ought to be some regulation, at least to the extent of restricting and limiting the power of corporations engaged in interstate commerce to issue stocks and bonds. This condition has been a matter of growth in my own mind and judgment. I have always been rather inclined to the general theory of as little regulation as was necessary as being better than to have any that is superfluous. But experience and observation have convinced me that there should be some regulation at the base as well as at the top of this matter of common-carrier organization and operation."

You will see from this statement—and it is concurred in by a majority of the Interstate Commerce Commission—that they believe some steps along the line of Federal control of the issues of securities engaged in interstate commerce is absolutely necessary and imperative, and, being in harmony with this law, your committee has added section 20A, which says that it shall be unlawful for any common carrier subject to the act to regulate commerce to issue any capital stock or certificate of stock, any bond or other evidence of indebtedness, or assume any other obligation or become the lessor of any other railroad, or the guarantor or surety for the securities of any other person, natural or artificial, even though permitted by the authority creating the carrier corporation, except for some purpose necessary to the proper performance of its service for the public and not tending to impair the financial ability of the carrier to discharge its duty to the public, and goes on to say that extensions and improvements of its railroads and terminals in connection therewith increasing and improving the equipment, refunding and retiring existing bonds, and similar and kindred purposes shall be held to be necessary purposes in the meaning of this law.

By the unbridled and unregulated system in the past of the railroads of the country loading themselves down with unnecessary and inappropriate issues of stocks and bonds, we believe that the railroad companies have placed them-



selves in a position where they have not been able to perform their duties to the public. We do not say that capitalization is the all-controlling factor in the making of rates, but we do say that it is one of the great determining factors in making and promulgating railroad tariffs. When a railroad company is allowed to unnecessarily load itself down with spurious securities of one kind and another, every thoughtful man will agree that the ability of the carrier to perform its functions is impaired. The present deplorable conditions of the railroads of this country are but an echo of bad management upon the part of the railway officials.

This bill was passed by the House in the Sixty-third Congress with only 12 dissenting votes. It would in all probability have passed the Senate but for conditions arising out of the European war. With this great indorsement of the last House, we believe it should again pass, and this time be passed by the Senate and become law. It is our firm belief that when the provisions of this bill are law it will put a stop to the railroad wreckers in this country and will redound to the good of all, the honest railroad management as well as the shipping and investing public. We are of the opinion, after much study of the subject, that all railroads of the country that are not badly located would at this time, and during the period of depression that has to some extent ended, be making a fair return on an honest capitalization. This bill simply provides for honest capitalization and honest management; we therefore confidently believe that the Congress will eagerly concur in its provisions.

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#### EXHIBIT 8½.

That the act entitled "An act to regulate the construction of dams across navigable waters," approved June twenty-third, nineteen hundred and ten, be, and the same is hereby, amended to read as follows:

"SECTION 1. That when consent or authority has been or may hereafter be granted by Congress, either directly or indirectly, through any duly authorized official or officials of the United States, to any persons to construct and maintain a dam for water power or other purpose across or in any of the navigable waters of the United States, such dam shall not be built or commenced until the plans and specifications for such dam and all accessory works, together with such drawings of the proposed construction and such map of the proposed location as may be required for a full understanding of the subject, have been submitted to the Secretary of War and the Chief of Engineers for their approval, nor until they shall have approved such plans and specifications and the location of such dam and accessory works; and after such approval it shall not be lawful to deviate from such plans or specifications either before or after completion of the structure unless the modification of such plans or specifications has previously been submitted to and received the approval of the Secretary of War and the Chief of Engineers. Such plans, specifications, and drawings shall be submitted within two years after the date of approval of the act authorizing the construction.

"SEC. 2. That as a part of such approval such conditions and stipulations may be imposed as the Secretary of War and the Chief of Engineers may deem necessary to protect the present and future interests of the United States, which may include the condition that the persons constructing or maintaining such dam shall construct, maintain, and operate in connection therewith, without expense to the United States, a lock or locks, booms, sluices, or any other structure or structures which the Secretary of War and the Chief of Engineers or Congress may deem necessary in the interests of navigation, in accordance with such plans as they may approve; and also that the persons owning such dam shall convey to the United States, free of cost, title to such land as may be required for such constructions and approaches and shall grant to the United States free water power or power generated from water power for building and operating such constructions; and in such original approval, at the discretion of the Secretary of War and the Chief of Engineers, may be required to maintain and operate such lock without expense to the United States. The Secretary of War shall provide as a condition of such approval for the diligent, orderly, and reasonable development and continuous operation of the water power, subject to market conditions, and may provide that the grantee shall at no time contract for the delivery to any one consumer of electrical energy in

excess of fifty per centum of the total output, except upon the written consent of the Secretary of War.

"SEC. 3. That as a part of said approval, the Secretary of War and the Chief of Engineers shall require that the project adopted and the plans, specifications, and location for any dam shall be such as, in the judgment of the Secretary of War and the Chief of Engineers, shall be best adapted to a comprehensive plan for the improvement of the waterway in question for the uses of navigation and for the full development of its water power and for other beneficial public purposes and best adapted to conserve and utilize in the interests of navigation and water-power development the water resources of the region. As between contesting applicants for approval of plans and specifications hereunder, preference shall be given to that applicant whose plans are best qualified to expedite such development; and as between such contesting applicants which appear equally well qualified in such respect, preference shall be given to that applicant which has first complied with the laws of the State or States in which such dam is to be constructed.

"SEC. 4. That in case of the development, generation, transmission, and use of power or energy under such approval in a Territory, or in two or more States, including leases under section nineteen hereof, the rates charges, and service for the same to the consumers thereof shall be reasonable and just; and all unjust, unreasonable, or unjustly discriminatory charges, rates, or services are prohibited and declared to be unlawful, and the regulation and control of so much of the service and of charges for service to consumers as constitutes commerce between the States or in such Territory and of the issuance of stock and bonds by the grantee is hereby conferred upon the Secretary of War or committed to such body as may be provided by Federal statute; that in the valuation for rate-making purposes of the property existing under said approval of the project there may be considered any lock or locks or other aids to navigation, and all other capital expenditures required by the United States, but no value shall be claimed or allowed by the rights hereby granted, for good will or any other intangible value: *Provided*, That the physical connection of plants or lines for the generation, distribution, and use of power or energy under this act or under approval made hereunder may be permitted, in the discretion of the Secretary of War, but combinations, agreements, arrangements, or understandings, express or implied, to limit the output of electrical energy, to restrain trade or to fix, maintain, or increase prices for electric energy or service are hereby prohibited.

"SEC. 5. That as a part of the conditions and stipulations such approval shall provide—

"(a) For reimbursement to the United States of all expenses incurred by the United States with reference to the project, including the cost of any investigation necessary for the approval of the plans as heretofore provided, and for such supervision of construction as may be necessary in the interest of the United States.

"(b) For the payment to the United States of reasonable charges for the benefits which may accrue to such project through the construction, operation, and maintenance, in and about such streams, by the United States of headwater improvements of every kind, nature, and description, including storage reservoirs or forested watersheds or land owned, located, or reserved by the United States at the headwaters of any navigable stream for the development, improvement, or preservation of navigation in such stream in which such dam may be located. Such charges shall be fixed from time to time by the Secretary of War and Chief of Engineers, based upon a reasonable compensation equitably apportioned among the grantee and others similarly situated upon the same stream receiving benefits by reason of increase of flow past their water-power structures artificially caused by such headwater improvements, the total charges to all such beneficiaries from any such headwater improvement not to exceed in any one year an amount equal to five per centum of the total investment cost, in addition to the necessary annual expense of the operation of such headwater improvement.

"(c) That in the construction, maintenance, and operation of any project under this act for the promotion of navigation, the grantee may, with the consent of the Secretary of War, use and occupy, when necessary for carrying out the project, lands acquired by the United States through purchase or condemnation and any part of the public lands withdrawn by the President from entry or disposition for the sole purpose of promoting navigation, which the President may do, as provided in the act entitled 'An act to authorize the



President of the United States to make withdrawal of public lands in certain cases,' approved June twenty-fifth, nineteen hundred and ten. For any of such lands so used the grantee shall pay to the United States such reasonable charges as may be fixed by the Secretary of War.

"SEC. 6. That the right is hereby reserved to the United States to construct, maintain, and operate, in connection with any dam built in accordance with the provisions of this act, a suitable lock or locks, booms, sluices, or any other structures for navigation purposes, and the operation of any navigation facilities which shall be constructed as a part of or in connection with any dam built under the provisions of this act, whether at the expense of such grantee or of the United States, shall at all times be subject to such reasonable rules and regulations in the interest of navigation, including the control of the level of the pool caused by any such dam, as shall be made by the Secretary of War and the Chief of Engineers, and in the use and operation of such navigation facilities the interests of navigation shall be paramount to the uses of such dam by such grantee for power purposes. Such rules and regulations may include the maintenance and operation by such grantee, at its own expense, of such lights and other signals as may be directed by the Secretary of War and Chief of Engineers and such fishways as shall be prescribed by the Secretary of Commerce, and for failure to comply with any such rule or regulation such grantee shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subjected to a fine of not less than \$500 for each month's default, in addition to other penalties herein prescribed or provided by law.

"SEC. 7. That the grantee shall commence the construction of the dam and accessory work within one year from the date of the approval herein provided, and shall thereafter, in good faith and with due diligence, prosecute such construction, and shall, within the further terms of three years, complete the dam and afterwards shall, within such times as the Secretary of War and the Chief of Engineers shall prescribe, put in commercial operation such part of the ultimate development as the Secretary of War and the Chief of Engineers shall deem necessary to supply the reasonable needs of the then available market, and shall, from time to time thereafter, construct such portion of the balance of such ultimate development as said Secretary of War and Chief of Engineers may direct and within the time specified by said Secretary of War and Chief of Engineers so as to supply adequately the reasonable market demands until such ultimate development shall be completed; and extensions of the periods herein specified, not to exceed two years, may be granted by the Secretary of War, on recommendation of the Chief of Engineers, when, in his judgment, the public interest will be promoted thereby. In case the grantee shall not commence actual construction within the time herein prescribed, or as extended by the Secretary of War, then the authority as to such grantee shall terminate, and in case any dam and accessory works be not completed within the time herein specified or extended as herein provided then the Attorney General, upon the request of the Secretary of War, shall institute proper proceedings in the proper district court of the United States for the revocation of said authority, the sale of the works constructed, and such other equitable relief as the case may demand, as provided for in section fifteen of this act.

"SEC. 8. That without the written consent of the Secretary of War no sale or delivery of power shall be made to a distributing company, except in case of an emergency, and then only for a period not exceeding thirty days, nor shall any approval under this act be assigned or transferred without such written consent: *Provided, however,* That no grantee under this act shall create any lien upon any power project developed under an approval made under this act by mortgage or trust deed unless approved by the Secretary of War and for the bona fide purpose of financing the business of the grantee. Any successor or assign of such property or project or of any rights accruing hereunder, whether by judicial sale, foreclosure sale, or otherwise, shall be subject to all the conditions of the approval under which such rights are held, and also subject to all the provisions and conditions of this act to the same extent as though such successor or assign were the original grantee hereunder.

"SEC. 9. That the rights granted herein shall continue for a period of fifty years from and after the completion of the dam or lock and dam, and shall be irrevocable except as herein provided, but may be declared null and void upon breach of any of the terms or conditions of approval: *Provided,* That such approval shall be made within or through any national forest or other reservation only upon a finding by the Secretary of the department under whose supervision such reservation falls that the development will not destroy, materially injure,



or be inconsistent with the purpose for which said reservation was created or acquired.

"SEC. 10. That at any time after the expiration of said fifty years the United States may terminate the rights hereunder granted upon the giving to the grantee, either before or after the lapse of the period of the grant, of two years' notice in writing of such termination, and may take over the properties which are dependent, in whole or in part, for their usefulness on the continuance of such grant and which may have been acquired by any grantee acting under the provisions of this act, upon condition that it shall pay, before taking possession, first, the actual costs of the dam and locks and all other aids to navigation constructed under the approval of plans and specifications, rights of way, water rights, lands, and interests therein purchased and used by the grantee in the generation and distribution of electrical energy under the grant; and, second, the reasonable value of all other property taken over, including structures and fixtures acquired, erected, or placed upon the lands and included in the generation or distribution plant and which are dependent as hereinabove set forth, such reasonable value to be determined by mutual agreement between the Secretary of War and the grantee or owners of such property and in case they can not agree by proceedings instituted for that purpose in the United States district court for the district in which said property or some part thereof is situated, but in no case shall the amount exceed the actual cost: *Provided*, That such reasonable value shall not include or be affected by the value of the franchise or good will or profits to be earned on pending contracts or any other intangible element: *Provided further*, That in case of war or other emergency to be judged by the Secretary of War the United States shall have the right hereby reserved to requisition and take possession of any or all of said property and operate the same for its own use and benefit as long as the necessity or emergency continues, and compensation for such use and occupation shall be determined and paid as heretofore provided in this section.

"SEC. 11. That in the event the United States does not exercise its right to take over, maintain, and operate the properties as provided in section ten hereof the Secretary of War may renew the approval of plans and specifications either original or modified, upon such terms and conditions and for such periods as may be authorized under the applicable laws that may be in force at that time, or the Secretary of War is authorized, upon the expiration of any grant under this act, to approve terms and conditions under which a new grantee may operate such properties for such periods as applicable laws may then authorize upon the further condition that the new grantee shall pay the original grantee for the properties as provided in section ten of this act.

"SEC. 12. That where, in the judgment of the Secretary of War, the public interest requires or justifies the execution by any grantee of contracts for the sale and delivery of water power or electrical energy for periods extending beyond the life of the grant, but for not more than twenty years thereafter, such contracts may be entered into upon the approval of the said Secretary, and thereafter, in the event of the exercise by the United States of the option to take over the plant in the manner provided in either section ten or eleven hereof, the United States or its new grantee shall assume and fulfill all such contracts.

"SEC. 13. That the persons constructing, maintaining, or operating any dam or appurtenant or accessory works in accordance with the provisions of this act shall be liable for any damage that may be inflicted thereby upon private property, either by overflow or otherwise, and the United States shall in no event be liable therefor. The promotion of navigation for the benefit of interstate commerce being the paramount purpose and consideration for this legislation and the improvement contemplated therein, any grantee hereunder failing to secure necessary property rights, easements, and agreements by contract may acquire all such rights, either to use or damage any dam sites, lock sites, lands, or property of others necessary to the construction, maintenance, or operation of any such dam or diversion structure or of the works appurtenant or accessory thereto by the exercise of the right of eminent domain by condemnation proceedings in the district court of the United States for the district in which such land or other property may be located, or in the State courts. The practice and procedure in any action or proceeding brought for that purpose in the district court of the United States shall conform as nearly as may be with the practice and procedure in similar actions or proceedings in the courts of the State where the property is situated.

"SEC. 14. That in case of the development, generation, transmission, or use of power or energy under an approval given under this act, including leases under section nineteen hereof wholly within a State which has not provided a commission or other authority having adequate power to regulate rate charges and service to the consumers of electrical energy and the issuance of stock and bonds by public-utility corporations engaged in power development, transmission, and distribution, the control of rates, service, and charges to consumers and stock and bond issues shall be vested in the Secretary of War or committed to such body as may be authorized by Federal statutes until such time as the State shall provide a commission or other authority for such adequate regulation and control: *Provided*, That the control of the Secretary of War or other Federal authority shall cease and determine as to each specific matter of control described in this section so soon as the State shall have provided a commission or other authority for the regulation and control of that specific matter.

"SEC. 15. That any grantee who shall fail or refuse to comply with the lawful order of the Secretary of War made in accordance with the provisions of this act shall be deemed guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine not exceeding \$1,000, and every month such grantee shall remain in default shall be deemed a new offense, and subject such grantee to additional penalties therefor; and in addition to said penalties the Attorney General may, on the request of the Secretary of War, institute proper proceedings in the district court of the United States in the district in which such structure or any of its accessory works may, in whole or in part, exist, for the purpose of having such violation stopped by injunction, mandamus, or other process; and any such district court shall have jurisdiction over all such proceedings and shall have the power to make and enforce all writs, orders, and decrees necessary to compel the compliance with the requirements of this act and the lawful orders of the Secretary of War and the performance of any condition or stipulation imposed under the provisions of this act; and if the unlawful maintenance and operation are shown to be such as shall require a revocation of all rights and privileges held under authority of this act, the court may decree such revocation. In case of such a decree the court may wind up the business of such grantee conducted under the rights in question and may declare such dam and accessory works to be an unreasonable obstruction to navigation and cause their removal at the expense of the grantee owning or controlling the same, or may provide for the sale of the dam and all accessory and appurtenant works constructed under authority of this act for the further development of water power, and may make and enforce such other and further orders and decrees as equity demands; and, in case of such a sale for the further development of water power, the vendee shall take the rights and privileges and shall perform the duties which belonged to the previous grantee, and shall assume such outstanding obligations and liabilities arising out of the maintenance and operation of such dam and accessory works for power purposes as the court may deem equitable in the premises.

"SEC. 16. That the Secretary of War is hereby authorized to examine books and accounts of grantees and to require them to submit statements, representations, or reports including information as to capitalization, cost of locks, dams, and other aids to navigation, water rights, lands, easements, and other property acquired, production, use, distribution, and sale of power or energy, all of which statements, representations, or reports so required shall be upon oath, unless otherwise specified, and in such form and upon such blanks as the Secretary of War may require; and any person making any false statement, representation, or report under oath shall be subject to punishment as for perjury.

"SEC. 17. That each approval under this act shall be conditioned upon the acceptance by the grantee of all the terms and conditions of this act and of terms and conditions specified in the approval, which acceptance shall be expressed in the approval as a part of the contract entered into, and that nothing in this act shall be construed as affecting or intended to affect or to in any way interfere with the laws of any State relating to the control, appropriation, use, or distribution of water except as related to the purposes of navigation.

"SEC. 18. That the right to alter, amend, or repeal this act is hereby expressly reserved as to any and all dams which may be authorized in accordance with the provisions of this act. In such case the United States shall incur no liability for the alteration, amendment, or repeal thereof to the owner or owners or any other persons interested in such dam.

"SEC. 19. That the Secretary of War be, and he is hereby, authorized to enter into leases for the use of surplus water and water power generated at dams and

works constructed wholly or in part by the United States in the interests of navigation at such rates or on such terms and conditions and for such periods of time not to exceed fifty years and with such provision for the periodical readjustment of rentals as may seem to him just, equitable, and expedient, subject, however, to the provisions of this act governing the authorization, maintenance, and operation of power plants, and to all regulations governing the use and disposition of the power, so far as the same may be applicable; and all such leases, the parties thereto, and the terms and conditions thereof shall be reported annually to Congress: *Provided*, That the said Secretary of War, in making such leases, other conditions being equal, shall give preference to the bid solely for municipal use of any municipal corporation or other public corporation not operated for profit.

"SEC. 20. That the provisions of this act shall not be construed as revoking or affecting any permits or valid existing rights of way heretofore given or granted pursuant to law, but at the option of the grantee any grant heretofore given for the development, generation, transmission, or utilization of power may be surrendered and the grantee given a grant for the same premises under the provisions of this act.

"SEC. 21. That the provisions of this act shall not apply to irrigation or power dams or grants to municipal corporations affecting the use of water or water power for municipal purposes or other projects under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture upon the public lands of the United States."

#### EXHIBIT 9.

[House Report No. 637, Sixty-third Congress, second session.]

The next three pages are offered in response to the general demand for authority to limit and prevent the overissue of stocks and bonds by the carriers, and we believe if enacted into law the provisions offered will prove effective for that purpose. Those provisions are added to the other amendments to section 20 of the act to regulate commerce because we thought them germane to the subject matter of that section, and the prevention of an overissue of stocks and bonds can certainly be greatly aided by the information vouchsafed in the first portion of section 20 as amended in this bill.

The provisions of the bill can be enforced effectively through two provisions made, one by injunction against unlawful conduct and the other by punishment in the courts of persons who violate the law, and as to those persons who practice wholesale speculation and manipulations in stocks and bonds, known in the past as magnificent wreckers of railroad systems, we have left the punishment in the discretion of the court, as it is thought proper to leave to the ingenuity of the court the full limit of human ingenuity in inflicting punishment on those who injure commerce and the prosperity of the country by crippling and wrecking the great systems of transportation.

As your committee understood that the Judiciary Committee was not dealing with the directorates of railroad companies, your committee has deemed it proper to include a provision preventing common directorates and management, except when under peculiar conditions rendering it necessary the Interstate Commerce Commission may sanction such duplicate office holding. In connection with the provision to punish violations of that law we propose pains and penalties upon officers who issue stocks and bonds without authority of law or who violate the proposed law against applying the proceeds of the stocks and bonds to improper purposes.

Believing that there is not only merit in the provisions offered in the bill herewith reported, but also that it will go far in remedying the evils complained of, the bill is respectfully submitted.



NOVEMBER 12, 1917.

Hon. FRANCIS G. NEWLANDS,

*Chairman Joint Congressional Committee,**Palace Hotel, San Francisco.*

MY DEAR SENATOR: As you will remember, Congressman Esch suggested at the hearing last Saturday that the resolutions adopted by the National Association of Railway and Utilities Commissioners at its recent convention in Washington be produced and made part of my examination, and the committee so directed.

I assume that Mr. Esch did not have in mind the resolutions ordering the filing of the various committee reports, some 17 in number, or approving recommendations therein contained, but that he referred to the special resolutions adopted by the national association as declaratory of the policy of the association on important subjects. The association adopted, unanimously in each instance, five special resolutions on the following subjects:

1. Special war committee.
2. Cooperation with Interstate Commerce Commission.
3. Federal railroad valuation.
4. Joint congressional committee.
5. Standing committee on public ownership and operation.

Copies of these resolutions are transmitted herewith. While they follow recommendations made by me as president of the national association, I am not responsible for some of the language therein contained.

I wish to take this opportunity of expressing to you and the other members of the joint congressional committee my appreciative thanks for the many courtesies which the committee and its members have extended to me.

Yours, truly,

MAX THELEN.

SPECIAL WAR COMMITTEE.

Whereas Hon. Max Thelen, president of the National Association of Railway Commissioners, on May 28, 1917, addressed to the President of the United States a telegram offering the cooperation of the national association with the Federal Government in its action looking to control of railroad operation to meet military and industrial requirements; and

Whereas this offer was repeated by the executive committee of this association at a special meeting, held in Washington, June 7, 1917; and

Whereas President Thelen in his annual address declares it important that the State commissions give direct and immediate assistance to help win the war, and recommends the creation of a special committee by this association to that end:

*Resolved*, That this association authorizes the president to appoint immediately a special war committee of five members, which shall be charged with the duty of conferring with the appropriate Federal and State authorities and with each State commission, and of giving advice and suggestions as to what each commission can do affirmatively and constructively to help the Nation in the present emergency; and to select agents to carry out its objects and to make effective the offers of cooperation made by the president and the executive committee.

*Further resolved*, That the president of this association elected for the ensuing year shall be ex officio a member of said special war committee.

#### COOPERATION WITH INTERSTATE COMMERCE COMMISSION.

It appearing desirable in the public interest that legal authorization should exist for effective cooperation between the Interstate Commerce Commission and the commissions of the several States having jurisdiction over intrastate railroad rates in cases where discrimination between interstate and intrastate rates might otherwise exist; and

Whereas such cooperation can now be secured only to a limited extent, and then only by voluntary action, for which no provisions exist in the statutes; and

Whereas the Interstate Commerce Commission, in its annual report for the year 1916, among its recommendations to Congress recommended as follows:

"6. That without abdication of any Federal authority to finally control questions affecting interstate and foreign commerce, the commission be authorized to cooperate with said commissions in efforts to reconcile upon a single record the conflicts between State and interstate rates"; and

Whereas it is believed that legislation along these lines will go far to meet the requirements of any such rate situations: Be it

*Resolved*, That the committee on State and Federal legislation be, and it is hereby, directed to confer and cooperate with members of the Interstate Commerce Commission in bringing said matter before the Federal Congress, with the view of securing the necessary statutory authority for effective cooperation between the Interstate Commerce Commission and the regulatory commissions of the several States; and be it

*Further resolved*, That it shall be the duty of said committee to inform the members of this association, from time to time, of any such legislation proposed for enactment by the Federal Congress, and that such notification shall be so full and timely that all members of the association shall have full opportunity to appear and be heard on all such proposed legislation, and to take such action in regard thereto as they may deem best for the public interest.

#### FEDERAL RAILROAD VALUATION.

Whereas for the last two years Hon. Clyde B. Aitchison has represented this association through its valuation committee as a solicitor in Washington, and has carefully observed the work of valuation of railroads being done by the valuation division of the Interstate Commerce Commission, has advised the State commissions of its progress, has filed briefs giving the point of view of the public, and has done everything in his power to assist the Federal authorities in promoting such work:

*Resolved*, That the association, while congratulating Mr. Aitchison upon his appointment as a member of the Interstate Commerce Commission, regrets the loss of his services for the valuation committee.

*Further resolved*, That the association, recognizing the importance of continuing such representation at Washington, hereby declares for a continuation of the work, and empowers and directs the valuation committee, to be appointed by the president elected at this convention, to select a suitable man to fill the vacancy in the solicitorship caused by the transfer of Mr. Aitchison to the Federal commission; and that the State commissions belonging to this association which have contributed to the maintenance and support of the valuation solicitor's office continue their contributions for that purpose for the next two years.

#### JOINT CONGRESSIONAL COMMITTEE.

Whereas under the direct authority of this association the committee on State and Federal legislation appeared before the joint congressional committee of the Senate and House of Representatives, commonly known as the Newlands committee, and performed effective work in cooperating with that committee and in bringing before it the views of the State commissions:

*Resolved*, That the committee on State and Federal legislation, to be appointed by the president to be elected for the ensuing year, be authorized and directed to continue such appearance before and cooperation with said Newlands committee.

#### STANDING COMMITTEE ON PUBLIC OWNERSHIP AND OPERATION.

*Resolved*, That section 4 of the constitution of the National Association of Railway Commissioners be amended so as to add to the list of standing committees a committee on public ownership and operation of railroads and other public utilities, as recommended by President Thelen in his annual address, and that such committee ascertain and report to this association the facts bearing upon the comparative worth and efficiency of Government regulation and control as compared with Government ownership and operation of public utilities; and that the special committee on public ownership and operation appointed at the 1916 convention be discharged, with the thanks of the association for its work in collecting and compiling data regarding public ownership and operation as contrasted with private ownership and operation of such utilities.

## THE DUTY OF THE STATE COMMISSIONS DURING AND AFTER THE WAR.

By MAX THELEN, President National Association of Railway Commissioners.

[Twenty-ninth annual convention, Oct. 16, 1917.]

For the first time in its 29 years of life the National Association of Railway Commissioners convenes while the Nation is at war. We meet in the historic city of Marshall and Story, of Webster, Clay, and Calhoun, of Washington, Jefferson, and Lincoln, Roosevelt, and Wilson; the city of idealism, of statesmanship, and of patriotism.

At such a time and in such a place every loyal American asks himself, What can I do in my field of action to help my country in the present emergency? What can I do to help create in this Nation the new loyalty of devotion and sacrifice for country which is necessary now and hereafter to enable the United States to take and maintain her destined place among the nations of the world? We ask ourselves not what is my right against my country, but what is my duty in her service; not what will my country do for me, but what can I do for my country.

At this time, when individual action yields to collective patriotic endeavor, each member of the National Association of Railway Commissioners asks himself, What action can I take and what action can my commission take to serve the Nation during the war, and what can I do now in preparation for the vital problems which will come after the war, so that they may be wisely and patriotically solved, and so that the Nation in the solution thereof may grow stronger, more efficient, and more fit?

Accordingly, I have chosen as the subject of the president's annual address "The duty of the State commissions during and after the war."

### POSSIBILITIES OF DIRECT WAR SERVICE BY STATE COMMISSIONS.

It, of course, goes without saying that each commissioner pledges himself unreservedly to every service which his State and his Nation may ask of him in the present emergency. We all desire to be of service, but to many of us the path of most effective service is not clear. In the hope of being able to translate our desire to help into terms of specific and definite action I shall draw attention to certain steps which in my judgment the various State commissions can and ought to take to help the Nation in the war.

#### RAILROAD—CAR SHORTAGE.

To assist in the solution of our serious car-shortage problem the State railroad and public service commissions have sent circular letters urging all shippers to cooperate with the railroads by prompt loading, by loading to full capacity, and by prompt unloading of freight cars. By distributing empty cars into districts where needed, increasing the daily mileage of locomotives and freight cars, reducing the number of locomotives and freight cars awaiting repairs in shops, and other measures, the railroads have patriotically assisted in securing greater efficiency of their limited transportation equipment. While the cooperation of the public authorities, the shippers, and the railroads has produced gratifying results, the situation is still serious and threatens to become more acute during the remaining months of the year.

The State commissions must render further service in the car-shortage problem. Wherever we find in our States that extra fare or limited passenger trains are being run in excess of reasonable necessity, wherever we find that unnecessary trains of any character are being operated between competitive points, wherever we find that other unnecessary expenses are still being incurred by the railroads, it is the duty of the State commissions to take



affirmative action, to draw the matter to the attention of the railroads, and to urge them, not merely to authorize them, to eliminate the unnecessary service and expense so as to conserve their transportation efficiency. While we are at war the American people do not need luxurious passenger service. In these matters the State commissions should be leaders and not followers.

The permanent solution of the car shortage and other fundamental railroad problems are matters to which I shall hereinafter refer. Let us, however, at the present time take every emergency measure which can be of assistance, even though temporarily inconveniencing our people, so as to help win the war.

The National Association of Railway Commissioners is giving increasing consideration to the regulation of classes of utilities other than railroads.

#### ELECTRIC UTILITIES—CONSERVATION OF FUEL.

Our electric utilities present serious war problems, particularly in connection with the conservation of fuel. Fuel takes its place with man power and food as one of the three most important factors in this war. Wherever hydro-electric utilities with steam reserves are being separately operated, fuel can be saved by making interconnection between the existing systems so that the output of each company will supplement that of the others and so that the reserves of each company will be made available to all other companies. Through such interconnection a considerable portion of the existing steam reserve capacity can be entirely eliminated with a consequent material saving of fuel. One of the western railroad commissions, on its own initiative, has taken up this matter with the electric companies of the State, and it is hoped that arrangements will soon be made through interconnection of existing systems so as to produce greater efficiency in their operation and to eliminate unnecessary steam reserves. At this time, more than ever, efforts should be made to bring about the most efficient operation of all electric utilities, with the attendant conservation of fuel and man power.

#### WATER UTILITIES—INCREASED FOOD PRODUCTION.

Water utilities play a vital part in the production of food in the arid and semiarid regions of the West. During the present emergency nothing is more important in these sections of our country than the efficient utilization of existing water supplies for the irrigation of lands engaged in the production of food. The railroad and public service commissions in these States can be of material service by carefully studying the situation and advising with the existing water companies as to the means to be taken to secure the most efficient utilization and development of their water supplies.

Promptly after the outbreak of the war the California Railroad Commission issued a general order permitting all water utilities in the State to deliver water free or at reduced rates during the emergency created by the war, so as to encourage the production of additional food supplies, it being specifically provided that the service of such additional water should not obligate the water utilities to continue such service after the termination of the war or in any way prejudice their rights as public utilities. Furthermore, the State legislature, acting at the suggestion of the railroad commission and the State water commission, passed a statute authorizing mutual water companies and the owners of private water supplies to deliver water to third parties for the irrigation of lands during the emergency created by the war, without thereby taking on the status of public utilities. By reason of this and other action toward the same end the crops of California are this year the greatest in the history of the State.

#### WAREHOUSEMEN—CARE OF STORED FOOD PRODUCTS.

Warehousemen play an important part in the storage and transportation of the Nation's food supplies. In those States in which the State commission supervises warehousemen the commission can render substantial service by drawing the attention of the warehousemen to the necessity of making their warehouses weather, rat, and vermin proof and of exercising the greatest care in the handling of the stored food supplies so as to eliminate breakage and other losses. A number of State commissions have already taken such action with gratifying results. The commissions can also be of assistance in cooperating with the National Food Administration in the matter of the warehousing of food supplies.

## INVESTIGATIONS AND REPORTS ON WAR PROBLEMS.

Furthermore, in matters not of a strictly public utility character the State commissions can be of assistance by placing their trained staffs at the service of the State and Federal Governments for the purpose of making investigations, reports, and recommendations. The State railroad and public service commissions largely constitute the best trained expert administrative tribunals in the various States of the Union. Their experience and training in the ascertainment of facts peculiarly fits them to investigate and report the facts and to make their recommendations with reference to war problems as to which either the State or the Federal Governments may desire assistance.

Let me illustrate the kind of service which I have in mind. Everyone appreciates that in this war there is nothing more important than our fuel problem. In one of our Western States which produces a large proportion of the Nation's fuel oil the governor realized the need for an immediate investigation into the possibility of increasing the production of crude oil or of decreasing its consumption so that the greatest possible amount of fuel oil and its products might be made available for the Army and the Navy in the operation of motor trucks, vessels, and aeroplanes, and also to meet the tremendously increased requirements of our industries engaged in the preparation of war materials. The railroad commission of that State, immediately upon the declaration of war, offered its services to the governor and the State council of defense, as well as to the officials of the Federal Government. The governor, desiring a thorough investigation promptly made, turned to the railroad commission, appointed the president of the commission as chairman of a committee on petroleum, and urged the committee to report to him promptly the facts, together with recommendations for action. Within three months the committee placed in the governor's hands an exhaustive report dealing with every phase of the production, distribution, and utilization of the State's petroleum and its products, with specific findings of fact, conclusions, and recommendations, which were promptly approved by the governor and transmitted by him to the President of the United States with an offer on the part of the State to be of all possible service in the matter.

Let the State commissions at once take action without waiting to be called upon. If they have not already done so, let them immediately offer their services to the State and Federal Governments in every way in which their trained administrative machinery can be of service, whether in the regulation and supervision of public utilities or otherwise.

So important do I regard the giving of direct and immediate assistance by the State commissions to help win the war that I recommend to this convention that it create a special war committee which shall be charged with the duty of conferring with the appropriate Federal and State authorities and with each State commission and of giving advice and suggestions as to what each commission can do affirmatively and constructively to help the Nation in the present emergency.

## GENERAL PUBLIC UTILITY WAR PROBLEMS.

In addition to the specific matters which I have mentioned, which may be referred to as direct action to be taken by the State commissions to aid the Nation in the war, important general problems affecting the regulation of public utilities have resulted largely from the war and call for wise and helpful consideration by the State commissions.

## RATE INCREASES.

Increases in rates are being asked by many public utilities of various classes, including steam railroads, street railroads, gas companies, electric companies, warehousemen, and possibly others. These requests for higher rates are based on the increased cost of fuel, labor, and material caused by the war.

The applications of the steam railroads to the Interstate Commerce Commission and to the various State commissions to increase their freight rates 15 per cent were based largely on increased operating expenses due to the war. It is a matter of gratification to all our people that concurrently with these increased operating expenses there have been such increases not only in gross revenues but also in net revenues that it would seem unreasonable to expect that the steam railroads will press these applications where they have not already been dismissed.

## RAILROAD PROSPERITY.

While the railroads enjoyed an increase of 19.08 per cent in their net earnings for January, 1917, as contrasted with January, 1916, they suffered a decrease of 26.59 per cent in February and 8.18 per cent in March. This decrease, however, was converted into an increase of 0.07 per cent in April, 3.33 per cent in May, and 10.13 per cent in June. The net result of the first six months' operations in 1917 of all class 1 railroads was to show an increase of \$201,000,000 in gross earnings as contrasted with the first six months of 1916, and an increase of \$207,000,000 in operating expenses. While the net earnings after the payment of taxes showed a decrease of \$18,600,000, we must bear in mind that the position of the railroads should be measured not by a comparison with the record year of 1916, but by the increase of nearly \$155,000,000 in net earnings over the corresponding six months of 1915. We also should bear in mind the fact that during the first six months of 1917 the railroads spent \$50,000,000 more in the maintenance of their properties than in the corresponding period in 1916. If maintenance charges had been kept at the same level as in 1916, the net earnings for the first six months of 1917 would have shown an increase of \$30,000,000 over the net earnings for the corresponding period of 1916.

Returns for the month of July, made public by the Interstate Commerce Commission, show that during this month the net returns from the 180 class 1 railroads listed by the commission increased from \$103,000,000 to \$106,000,000, or from \$462 to \$475 per mile of road. The eastern district showed a decline, but both the southern and the western districts, where the State railroad commissions are supposed to be particularly active, showed a very substantial increase in net earnings. As illustrating the increasing net earnings of the railroads in the western district, the increases in net revenues for the seven months ending July 31, 1917, of the principal interstate railroads operating in California were as follows:

The Santa Fe's net revenue increased from \$28,900,000 to \$33,800,000. The Western Pacific Railroad Co.'s net revenue increased from \$1,500,000 to \$2,000,000, and the Southern Pacific Co.'s net revenue increased from \$29,000,000 to over \$39,000,000.

## RATES OF OTHER UTILITIES.

While the position of the steam railroads of the country, taken as a whole, is thus gratifying, the same statement can not be made with reference to certain of the street railroads, gas and electric companies, warehousemen, and other utilities. These classes of public utilities, as a whole, have not enjoyed the increase in business which has come to most of our steam railroads. To the applications of these utilities for authority to charge higher rates based on large increases in operating expenses, frequently without commensurate increases in the volume of business, the various State commissions must give prompt and sympathetic consideration. In a number of instances higher rates have already been authorized and in other cases increases must hereafter be allowed. In passing on these applications, however, careful consideration must be given by all parties to the question whether it is fair and just that the entire abnormal burden which has been caused by the war should be shifted from the public utility to its consumers, who largely must pay increased prices for everything they buy without in many cases themselves receiving a compensating increased salary or wage. Is it not fair to ask that the public utilities, instead of seeking permission to shift the entire increased costs, shall share with their customers the burden caused by the war?

## REDUCTION IN SERVICE.

The reduction or elimination of service has already been referred to in connection with the need for increasing railroad transportation efficiency. Where such applications are reasonably necessary to increase railroad transportation efficiency, they will, of course, be granted. But let me here sound a note of warning. Reductions in necessary service to rural communities and other portions of our country asked for by the carriers as a matter of patriotism should not be allowed while the carriers at the same time continue to maintain expensive, not to say luxurious, and largely unnecessary service between competitive points for the purpose of securing business from their rivals.

The reduction of service by other classes of utilities has not, in so far as I am aware, as yet become acute.



## CAPITAL EXPENDITURES DURING WAR.

Expenditures for additional railroad depots or for other new structures or extensions will, of course, not be ordered by the State commissions while the Nation is at war, unless absolutely necessary. I resent the efforts of various public utility representatives to secure from each State commission the enactment of a resolution formally resolving that the commission will not order the railroads and other public utilities to incur unnecessary expenditures during the war. Such efforts are entirely unnecessary and are not creditable to those who make them. The State commissions are just as patriotic as the railroads. Before any of these recent suggestions were made, most of the State commissions had already decided, as a matter of patriotism to refrain from directing any public utility to incur substantial expenditures which can fairly and reasonably be deferred until after the war. This policy will be carried out without formal resolutions and without self-laudatory publicity, because it is the fair and patriotic thing to do.

## FINANCING.

Supervision over the finances of public utilities, including their issues of stock and bonds, their encumbrances, consolidations, and mergers, is perhaps the most important branch of all public utility regulation. The increasing number of securities of foreign Governments and of our own Government which are being offered for sale in the United States at constantly higher rates of interest have made it almost impossible to sell in the financial centers of the United States new security issues of public utilities and other industries. The only class of such securities which are still finding a reasonably ready sale in the financial centers of the United States are short-term notes, which are in general an expensive and unsatisfactory method of financing.

The increasing cost of money and the impossibility of selling long-term securities have made the problem of public utility financing at this time a very serious one. Electric companies need more money for the development of additional power to revolve the wheels of industry and to pump water for the irrigation of additional crops. Water companies need funds for the construction of additional reservoirs and irrigation systems for the irrigation of additional lands. Railroad companies need enormous additional amounts of money to increase their transportation equipment and their terminal facilities.

The situation demands sympathetic, affirmative assistance from all the State commissions which have jurisdiction over public utility finance. One of the State railroad commissions of the West, foreseeing this situation, conferred some months ago with the leading public utilities of the State and took up with them the matter of immediately securing additional funds so as to enable them to continue their development work for at least another year. The principal utilities of that State have now financed themselves for the next year's requirements, although it was necessary in certain instances, because of war conditions, to pay materially higher rates of interest. In this particular State, the sale of public utility securities to the local people has for a number of years been encouraged by the State railroad commission, with the result that in the present emergency it was possible to sell large additional security issues in the local markets after the money markets of New York and Chicago had refused to purchase additional long-term securities.

In each State in which the railroad or public service commission has jurisdiction over public utility finance, the commission, if it has not already done so, should at once confer with such of the State's utilities as are likely to require substantial additional funds for development purposes and give more careful consideration to the problem of meeting the utilities' financial requirements. At this time, more than ever, there is need for the most sympathetic and constructive cooperation between the public utilities and the regulatory authorities, both State and Federal.

The general problems of public utility regulation which have grown out of the war and which are now before most of our State commissions for solution, will no doubt receive earnest consideration in the presentation to this association of its various committee reports and in the discussion of these reports on the floor of the convention. In my judgment, this association can perform no greater service at this time than to work out and apply uniform and constructive solutions of these problems.

## IMPORTANT CONTINUING UTILITY PROBLEMS.

When the light of peace shall again shine upon our country, our Nation will be a different country from the one which we have known.

Never before have our people realized as fully as they now do the need for greater efficiency, both in public and in private affairs. Never before have our people so thoroughly understood the desirability and necessity of governmental action in the supervision and regulation of the Nation's business. Collective action during the war will prepare our people for collective action after the war.

Elihu Root, speaking before the American Bar Association, in 1916, said:

"That surrender of individual liberty to superior control which is essential to the discipline and efficiency of an army has been extended to civil life and applied to governmental direction of productive industry, of transportation, and of consumption. The habits of communities accustomed to the least possible control over individual action proved wholly unfit in a sudden emergency to meet the military competition of highly disciplined masses. The question how far the abandonment of individualism and the establishment of rigid governmental control is to be continued or extended for purposes of efficiency in peaceful competition is of the highest interest and importance to us."

In view of the situation which will exist in this country after the war, and of the necessity for maintaining the increase of national efficiency which has followed the spur of necessity, it is the duty of all American citizens to consider by what means they can contribute in their own fields of action toward the permanent higher efficiency of the people of the United States.

In the hope that consideration of this problem now will make us more able to perform our duty then, I suggest that this convention take time by the forelock and at this time consider in the light of the need for greater national efficiency a few of the more important and permanent problems of public utility regulation.

## THE RAILROAD PROBLEM.

The railroad problem in the United States has permanently moved beyond the ownership and operation of the railroads as disconnected entities by private companies. The issue now and hereafter is an issue between consolidated operation of our railroads in private ownership and their unified operation directly by the people through Government ownership. National exigency, lofty patriotism, and perhaps a realization that Government operation was immediately impending unless private operation met the emergency, prompted the railroads of the United States, immediately after the declaration of war, to operate as a single consolidated American system and in doing so, to eliminate a portion of the waste and inefficiency which were pointed out by the Interstate Commerce Commission in the 5 per cent advance rate case and which for years have been recognized and commented upon by State railroad commissioners and other students of railroad problems. But what is now being accomplished is only a small part of what must be done if our railroads are to measure up to our new standards of national efficiency.

Who has not seen passenger and other trains constantly running half empty over two, three, or four parallel railroad tracks between the same communities? Who has not seen in our large cities splendidly equipped passenger and freight offices of competing railroad systems, side by side, on the same street, with hosts of competing passenger solicitors, freight solicitors, and other employees, all striving to take business away from the competing railroads? Who has not seen luxurious and unnecessary passenger trains operated by rival railroads at great expense between competitive points for the purpose of attracting freight business from other railroads operating between the same points? Who has not seen in multitudinous forms the results of our laissez faire policy which has permitted our railroads to develop duplications of facilities and of service which have resulted and still result in enormous annual losses to the Nation? Who has not observed the increasing difficulty of our railroads in securing at reasonable interest rates or at all the new capital imperatively necessary for extensions and betterments? Who has not observed the unsound financial structures of many of our railroads, leading to bankruptcy proceedings as inevitably as the inexorable laws of time? I am not now speaking of causes but only of the facts which are patent to all.

These conditions may be summarized as follows:

1. Duplication of facilities.
2. Duplication of service.
3. Duplication of operating expenses.
4. Difficulty in securing necessary new funds.
5. Unsound financial structures.

What the railroads are now doing is being patriotically done, and deserves and is receiving the unstinted praise and commendation of all American citizens. But what they are now doing in seeking to ameliorate car shortage is merely a scratching of the surface. The other conditions to which I have referred must be remedied if our railroad-transportation system is to substitute efficiency and financial stability for inefficiency and weakness, and if it is to measure up to the standard of national efficiency which the people of the United States will imperatively demand after the war.

The question to which thoughtful students of public affairs have been and are now giving attention, and to which we as public officials engaged in the supervision and regulation of railroads must give consideration is: Will these necessary changes be brought about under private consolidated management of the railroads or are we to be driven for their solution to Government ownership?

#### NEWLANDS COMMITTEE.

These problems and others are included in the exhaustive program of the joint congressional committee of the Senate and the House of Representatives, commonly known as the Newlands committee.

With the exception of Federal control over the issue of securities, the remedies which have been proposed by the railroads to the Newlands committee are, in my opinion, merely patchwork. They will not cure the matters to which I have referred, which matters are fundamental. Federal incorporation of the railroads is in itself merely a shifting of the machinery of corporate organization and control, and as proposed by the railroads will cure none of the fundamental conditions from which the railroads are suffering.

The Newlands committee has shown every disposition to investigate and ascertain the truth with reference to the fundamentals of the railroad problem. The committee on State and Federal legislation of this association appeared before the Newlands committee, as directed by the last convention of this association, and to the best of its ability cooperated with the committee in its arduous task.

I recommend to this convention that the new committee on State and Federal legislation be directed to continue its appearance before the Newlands committee and to do whatever lies in its power to assist the committee in its important and responsible work.

#### PUBLIC OWNERSHIP.

One of the questions which is included in the program of the Newlands committee is the comparative worth and efficiency of Government regulation and control as compared with Government ownership and operation of public utilities.

The last convention of this association authorized the appointment of a special committee on public ownership and operation, with instructions to consider and report at this convention on the question of public ownership and operation as contrasted with private ownership and operation of public utilities. This committee will present to the convention a report showing its understanding and interpretation of the present-day trend of the changing relations between the public utilities and the people and suggesting to this association a general outline of the subject, with recommendations indicating along what lines further investigations and studies should be made.

The subject is one of increasing importance. In my opinion this association can do no greater constructive work than to ascertain and report the facts in connection with the private and the public ownership and operation of public utilities, so that if this Nation should hereafter find it necessary to resort to public ownership and operation of our railroads and other public utilities it may have at hand a solid foundation of fact, on the basis of which it can enter on such task wisely and successfully.

I recommend to this convention that the special committee on public ownership and operation be made permanent and that the committee be directed to



continue its work of ascertaining and reporting to this association the facts bearing on the comparative worth and efficiency of Government regulation and control as compared with Government ownership and operation of public utilities.

#### FEDERAL RAILROAD VALUATION.

The Interstate Commerce Commission is at the present time engaged in the most gigantic public-utility valuation in the world's history. I refer to its ascertainment of the facts entering into the value of the property of the railroads of the United States, generally known as the Federal railroad valuation.

In its report to this association in 1915 the committee on railroad taxes and plans for ascertaining the fair valuation of railroad property suggested that the findings of the Interstate Commerce Commission on the various elements of value be made in such form and detail that they can be most advantageously used for every purpose for which the American people may hereafter desire to use them. The committee suggested that the greatest public good can be subserved by reporting simply the facts with reference to each element of value, without the embarrassments which would follow from ultimate findings of value for any specific purpose. By reason of the wide experience of the State commissions in the valuation of properties of different classes of utilities, the committee reported that it is the solemn duty of the various State commissions to their States and to the Nation to render all possible assistance in the Federal railroad valuation.

The Interstate Commerce Commission, through its division of valuation, has been hard at work, and has made substantial progress. The valuation will be of tremendous importance to the people of the United States, not only in the establishment and testing of rates but also when our people finally enter upon the scientific and comprehensive control over the issue of railroad securities and if it hereafter becomes necessary to have the Government itself take over and operate the railroads.

The carriers seem to be generally opposed to the ascertainment of the facts by the Federal Government. The Boston American of August 23, 1917, is authority for the statement that the Advisory Council of the Council for National Defense, consisting largely of representatives of the railroads and affiliated interests, had advised the National Council of Defense to have the valuation of the railroads suspended during the war. That an effort to suspend or stop the valuation was made is generally known. The effort thus far has been unsuccessful.

There is nothing in the present emergency which would justify the suspension of the valuation work. For the purpose of taking intelligent action hereafter, the people of the United States are entitled to know, as promptly as possible, the facts with reference to the value of our railroad properties. The valuation work must go on.

In the desire to be of service to the Federal Government, this association, acting through its valuation committee, has maintained a solicitor in Washington, who has carefully observed the work, has advised the commissions of its progress, has filed briefs giving the point of view of the public, and has done everything in his power to assist the Federal authorities. The association was particularly fortunate in securing for this purpose the services of Clyde B. Aitchison. While his promotion will create a vacancy which it will be difficult to fill, we all rejoice that his honorable and able public career has found recognition by his appointment as a member of the Interstate Commerce Commission, and we all congratulate the Federal Government on having added to the great Federal railroad tribunal a member of such distinguished ability, fairness, and efficiency.

I recommend to this convention that the work of its valuation committee be continued and to the various States of the Union that they continue, to the extent of their respective abilities, the altruistic support which they have heretofore given to this association and to its valuation committee in this work.

#### TELEPHONE CONSOLIDATIONS.

The growing tendency toward the consolidation of competing telephone companies presents problems worthy of careful consideration by all State commissions which have jurisdiction over this class of utility. To a considerable extent the telephone companies which heretofore enjoyed a monopoly failed in their duty to the public. Their service was largely poor, their policy as to

extensions narrow and their treatment of the public inconsiderate. These conditions gave rise in various sections of our country to so-called independent or home telephone companies, which received a hearty welcome and support from the public. After a number of years of competition, with very much improved service, our people are now largely becoming restive under the expense and inconvenience of duplicate telephone systems. A movement toward telephone consolidation and elimination of duplicate service is growing in strength. The most notable instance in which the consolidation of competing telephone systems has been authorized is in the city of Los Angeles, in which city consolidation between two competing systems, one using the automatic instrument and the other the manual instrument, was recently permitted by the Railroad Commission of California. The commission's authority was granted only on condition that each patron should have his choice of manual or automatic instrument and should have equal access to the lines of all long distance telephone companies. Much has been said and written in the United States with reference to the relative merits of the manual instrument and of the automatic instrument. In Los Angeles, with entire freedom of choice of instruments to all telephone users, we shall have an opportunity to test out the question as to which of these instruments, in a field of open competition will survive.

In the last analysis, the vital question in connection with consolidations resulting in the granting of a monopoly to a utility in a given field, will always be whether, under the supervision and regulation now established in most of the States, the States will be strong enough and effective enough to compel good service at reasonable rates and an enlightened policy toward the public, in case the utility having such monopoly should be disinclined to do its duty toward the public. If regulation should be inadequate to handle the situation, and to give to the public the efficient service to which the public is entitled, there is always the final remedy of acquisition and operation of the utilities by the public. The problem is one of great importance, which deserves the careful and serious consideration of all public regulatory authorities.

#### HYDROELECTRIC DEVELOPMENT.

The development of additional electric energy, particularly in those portions of our country in which other forms of fuel are not readily available, is a pressing problem. The further development of our industries and the increase of our national efficiency require that where water power is readily available for the generation of electric energy, its development should be encouraged. Where such water powers are located on Government lands, a constructive policy should be adopted so that development may proceed under conditions just and reasonable both to the utilities and to the public.

#### IRRIGATION DEVELOPMENT.

The further development of water for irrigation is a matter of vital importance, particularly in the western portion of our country. As far as possible, every drop of water in those sections of our country should be impounded and placed to beneficial use. The problem is of such magnitude and the expense of the development so great that, to a considerable extent, the necessary development can be done only from public funds. In each of the States affected the State commission should make a careful study of the problem and do whatever lies in its power toward the solution.

I have thus referred to a few of the large problems affecting various classes of our public utilities, to which problems earnest consideration must be given by the public authorities now and after the war. This association long ago passed beyond the consideration of petty problems affecting only one class of public utility. At present the association has before it the entire field of public utility regulation, and it is my hope that in the consideration of these problems the association will climb the mountain tops and then, looking over the fields below, will be able to distinguish what is important and significant from mere detail, and from this exalted elevation will concentrate its efforts on such public utility problems as are large and vital in the Nation's welfare.

#### RAILROAD PUBLICITY CAMPAIGN.

Within the last few months the railroads have resumed their campaign of publicity against the State and Federal commissions. I have purposely said

nothing on this subject in my address and I do not propose now to do so. While this Nation is at war is not a proper time for the railroads to again enter upon their attacks. Rather should we all unite our efforts and present a common front, so that in harmonious, united action the Nation can be most effective in the present contest.

#### COMMITTEE REPORTS.

Referring now to committee reports, it gives me very great satisfaction to be able to announce that each of the 17 committees of this association is here ready with its report. This rather unique situation—which I am sure is extremely gratifying to all of us—prompts me to tender to the chairman and the members of the various committees the appreciative thanks of the association both for the quantity and the quality of their reports.

It is the hope of the president and of the executive committee of this association that these reports will be presented to the convention in summary form and that in this way a large amount of time heretofore consumed by the reading of reports may be saved for their discussion and for the discussion of other important subjects on the floor of the convention. The executive committee has suggested that the president appoint some member of this association to lead the discussion on each of these reports. We hope that in the discussion of these reports attention will be directed to the larger issues of public utility regulation now and hereafter.

#### TRIBUTES.

We miss at this convention the presence of the man who for many years as secretary of this association unselfishly gave to the association the very best that was in him. William H. Connolly has passed to his reward, but his service to this association will ever be green in our memory, and each of us through reflection on his unselfish service will be inspired to do better and more helpful work.

While mourning the loss of our friend, we all owe a debt of gratitude to Assistant Secretary James B. Walker, who immediately jumped into the traces and has rendered splendid service to this association continuously since the last convention. To the thanks which I know that all the other members of the association will freely give to Mr. Walker, I wish to add my own personal deep gratitude for the assistance which he has given to the president.

We also look in vain in this convention for the face of Judson C. Clements, than whom no member of the Interstate Commerce Commission has been more faithful and helpful in the work of the National Association of Railway Commissioners. He has left behind him a record of public service which will never grow dim and has set an example of faithful devotion to duty which will bear fruit in the acts of the regulatory commissions, State and Federal, in the years to come.

#### THE BABY COMMISSION—UTAH.

We welcome to the ranks of this association our baby member, the Public Utilities Commission of Utah. As is well known, the railroads and affiliated interests in the State of Utah have for many years ardently endeavored to create in that State a railroad commission. It must be a source of great gratification to them that their efforts along this line have finally been successful. Each State of the Union, except Delaware, now has its railroad or public-service commission represented in this association. As Delaware is, after all, only a tiny State, we may assume that the list of State railroad and public-service commissions has now been filled and that the insignia is complete. To the State of Utah and to her new public-utilities commission we give cordial greetings. In every way in which we can be of service we are at their command.

May we in this convention have the vision to see and the strength to do the things which will be helpful to our Nation in the present emergency. And may we, piercing the veil of the future, see what lies before our people in our field of activity and take thoughtful and timely action now, so that when the problems of to-morrow and the day after come to us for solution, we shall be ready to do our part as public officials, so that what is then done, be it by the States or by the Nation, may be done wisely, efficiently, and patriotically.



# RECEIVERSHIP AND REORGANIZATION OF STEAM RAILROADS.

[Prepared by Mr. Funkhauser, of the California Railroad Commission.]

## INTRODUCTORY STATEMENT.

This study of railroad receivership and reorganization covers 34 companies, which, on June 30, 1916, owned 36,199.046 and operated 43,748.176 miles of road.

Each company is treated separately. An effort has been made to set forth facts rather than the writer's opinions. The views of railroad officials, as well as excerpts from editorials of the Railway Age Gazette, Commercial and Financial Chronicle, Wall Street Journal, and other financial papers, appear in the report; likewise, the conclusion of the Interstate Commerce Commission in the case of the Rock Island, St. Louis & San Francisco, Boston & Maine, and Cincinnati, Hamilton & Dayton.

In general, the discussion of each company contains a reference to—

1. History;
2. Mileage;
3. Causes of receivership;
4. Financial status; and
5. Reorganization plans.

Reference is made to reorganization plans for the reason that they are indicative of the excessive fixed charges which some roads have been endeavoring to pay.

The following roads are covered by this report:

Name of company.	Mileage June 30, 1916.	
	Owned.	Operated.
Atlanta, Birmingham & Atlantic R. R. Co.....	637.6	649.42
Apalachicola Northern R. R. Co.....	97.13	132.02
Boston & Maine R. R. Co.....	707.33	2,298.49
Boyne City, Gaylord & Alpena R. R. Co.....	73.15	73.15
Chicago & Eastern Illinois R. R. Co.....	989.07	1,136.46
Chicago, Rock Island & Pacific Ry. Co.....	7,300.89	8,024.13
Chicago, Peoria & St. Louis R. R. Co.....	234.32	255.47
Cincinnati, Bluffton & Chicago R. R. Co.....	52.0	52.0
Cincinnati, Hamilton & Dayton Ry. Co.....	314.08	621.53
Colorado Midland Ry. Co.....	261.01	337.64
Columbus & Southern Ry. Co.....	22.82	22.82
Georgia & Florida Ry. Co.....	318.5	318.10
International & Great Northern Ry. Co.....	1,106.0	1,159.5
Macon & Birmingham Ry. Co.....	96.87	96.87
Marietta, Columbus & Cleveland R. R. Co.....	45.27	45.27
Missouri, Kansas & Texas Ry. Co.....	3,038.16	3,604.44
Missouri Pacific-Iron Mountain Ry. System.....	6,962.17	7,514.63
Missouri, Oklahoma & Gulf Ry. Co. et al.....	336.97	352.33
New Orleans, Mobile & Chicago Ry. Co.....	402.39	402.39
New Orleans, Texas & Mexico Ry. Co.....	172.886	286.036
New Mexico Central R. R. Co.....	116.00	116.00
Pere Marquette R. R. Co.....	1,791.88	2,248.75
San Antonio, Uvalde & Gulf R. R. Co.....	313.66	313.66
St. Louis, Brownsville & Mexico Ry.....	502.24	548.18
St. Louis & San Francisco R. R. Co.....	3,540.1	5,257.02
Tennessee Central R. R. Co.....	294.93	294.93
Texas & Pacific Ry. Co.....	1,851.92	1,944.07
Trinity & Brazos Valley Ry. Co.....	303.33	462.16
Toledo, St. Louis & Western Ry.....	450.58	450.58
Wabash-Pittsburgh Terminal Ry. Co.....	63.31	63.31
Wabash R. R. Co.....	2,033.8	2,519.1
Western Maryland Ry. Co.....	392.57	688.59
Western Pacific Ry. Co.....	926.0	926.0
Wheeling & Lake Erie Ry. Co.....	451.01	512.13
Total.....	36,199.946	43,748.176

Of the 36,199.946 miles, the so-called "Gould lines" comprise 13,786.78. The Rock Island, the Frisco with its affiliated companies, the Pere Marquette, and Cincinnati, Hamilton & Dayton, all of which have been wrecked by financial jugglery, as indicated by reports of the Interstate Commerce Commission, comprise 13,925.406 miles.

A variety of causes have contributed to the appointment of receivers for the various railroad companies. Among others, the following are the more important:

1. Short-term financing.
2. Excessive fixed charges.
3. Security speculation and unprofitable investments.
4. Floods.
5. War.
6. Panics.
7. Unwarranted extensions into new territory.
8. Charter restrictions.
9. Failure of banks.
10. Trust deed restrictions.
11. Reduction in rates.
12. Increase in wages and taxes.
13. Restrictive legislation.
14. Deferred maintenance and improvements.
15. Competition.
16. Unprofitable and burdensome leases.

Obviously, all of the causes are not operating in each instance where a receiver is appointed. Frequently, however, we find that three, four, or more of the causes are present.

1. *Short-term financing.*—Among the more important railroads which have come to grief because of short-term financing—that is, the issue of one, two, and three year notes—are the following:

	Notes outstanding at time receiver was appointed.
Chicago, Rock Island & Pacific .....	\$11,600,000
St. Louis & San Francisco .....	4,850,000
Missouri Pacific Ry. ....	24,845,000
Wheeling & Lake Erie .....	8,000,000
International & Great Northern .....	11,000,000
Western Maryland .....	16,000,000
Boston & Maine .....	13,000,000
Missouri, Kansas & Texas .....	25,000,000

2. *Excessive fixed charges.*—For the purpose of comparing fixed charges of companies which to-day are regarded as solvent with those which have recently been reorganized or are in the process of reorganization and for the purpose of this report are considered insolvent, the following tables may be of interest:

TABLE No. 1.—*Gross revenue, net income, fixed charges exclusive of taxes, and surplus per mile of road operated for the year ending June 30, 1915.*

[Data from Moody's Analyses of Railroad Investments.]

Name of company.	Gross revenue.	Net income.	Fixed charges.	Surplus over charges.
1. Solvent companies:				
New York Central .....	\$28,543	\$11,371	\$7,294	\$2,533
Baltimore & Ohio .....	20,246	7,306	4,157	2,377
Pennsylvania .....	40,564	13,917	4,968	7,342
Atchison, Topeka & Santa Fe .....	10,586	4,008	1,342	2,171
Southern Pacific .....	12,305	5,671	3,027	1,949
Union Pacific .....	11,171	6,183	1,937	3,650
Chicago, Burlington & Quincy .....	9,757	3,414	937	2,039
Southern Ry. ....	8,846	2,775	2,165	241
Great Northern .....	8,329	4,636	1,521	2,535
Illinois Central .....	13,021	4,627	2,510	1,438
2. Insolvent companies:				
St. Louis & San Francisco .....	8,183	2,606	2,467	<sup>1</sup> 245
Chicago, Rock Island & Pacific .....	8,517	2,252	1,937	<sup>1</sup> 88
Missouri Pacific .....	7,990	2,294	2,114	<sup>1</sup> 170
Wabash .....	11,545	2,532	2,963	<sup>1</sup> 817
Wheeling & Lake Erie .....	10,599	2,797	3,988	<sup>1</sup> 1,945
Texas & Pacific .....	9,440	2,297	1,314	525
Western Maryland .....	13,136	4,206	5,117	<sup>1</sup> 1,374
Boston & Maine .....	20,272	5,208	4,460	<sup>1</sup> 111
Missouri, Kansas & Texas .....	8,512	2,626	1,900	382
Pere Marquette .....	7,791	2,087	2,545	<sup>1</sup> 619

<sup>1</sup> Deficit.

TABLE NO. 2.—*Gross revenue, net income, fixed charges exclusive of taxes, and surplus per mile of road operated for the year ending June 30, 1916.*

[Data from Moody's Analyses of Railroad Investments.]

Name of company.	Gross revenue.	Net income.	Fixed charges.	Surplus over charges.
1. Solvent companies:				
New York Central.....	\$34,360	\$15,709	\$7,523	\$6,709
Baltimore & Ohio.....	21,594	8,407	4,530	3,017
Pennsylvania.....	48,602	19,439	6,056	11,767
Atchison, Topeka & Santa Fe.....	11,890	4,739	1,290	2,897
Southern Pacific.....	13,934	6,153	2,576	2,819
Union Pacific.....	13,237	7,508	1,937	4,900
Chicago, Burlington & Quincy.....	10,925	4,593	931	3,186
Southern Ry.....	9,962	3,948	2,195	1,338
Great Northern.....	10,089	5,569	1,501	3,131
Illinois Central.....	11,486	5,769	2,509	2,478
2. Insolvent companies:				
St. Louis & San Francisco.....	9,207	3,113	2,417	282
Chicago, Rock Island & Pacific.....	9,301	2,667	1,861	365
Missouri Pacific.....	8,761	2,374	2,168	<sup>1</sup> 183
Wabash.....	13,778	4,522	2,672	1,440
Wheeling & Lake Erie.....	17,938	6,440	3,975	1,581
Texas & Pacific.....	9,849	2,951	1,293	1,182
Western Maryland.....	16,169	6,323	5,009	798
Boston & Maine.....	23,123	7,569	4,834	1,853
Missouri, Kansas & Texas.....	8,402	1,833	1,890	<sup>1</sup> 486
Pere Marquette.....	9,419	3,067	2,676	113

<sup>1</sup> Deficit.

While not conclusive, yet the foregoing figures are suggestive of the difficulties encountered by certain railroad companies. The surplus over fixed charges measures the resistance of any railroad and its ability to meet successfully adverse conditions. Contrast the \$6,709 of surplus per mile of the New York Central with the \$365 per mile of the Rock Island, or the \$4,900 surplus of the Union Pacific with the \$183 deficit of the Missouri Pacific, or the \$2,819 surplus of the Southern Pacific with the \$282 surplus of the St. Louis & San Francisco for the year ending June 30, 1916.

That many of the companies covered by this report have been suffering from too heavy fixed charges is recognized by the reorganization committees which have been called upon to prepare plans to place the carriers upon a more stable financial basis. In advocating the adoption of the various reorganization plans the committees have alleged that the plans submitted to security holders would reduce fixed interest-bearing obligations and interest charges as follows:

Name of company.	Approximate reduction.	
	Funded debt.	Interest.
Chicago, Rock Island & Pacific.....	\$38,188,000	\$2,051,400
St. Louis & San Francisco.....	24,678,861	1,572,135
Wabash & Pittsburgh Terminal.....	50,000,000	2,500,000
Western Pacific.....	55,000,000	2,750,000
Wheeling & Lake Erie.....	12,603,100	976,435
Missouri Pacific.....	69,552,558	3,580,772
Colorado Midland.....	9,169,000	470,000
New Orleans, Texas & Mexico.....	28,582,930	926,000
Atlanta, Birmingham & Atlantic.....	20,174,000	1,053,000
Western Maryland.....	18,000,000	1,080,000
Pere Marquette.....	43,300,000	2,139,580
Wabash Railroad.....	56,600,000	2,611,363

<sup>1</sup> Includes interest on securities of companies not covered by reorganization plan.

3. *Security speculation and unprofitable investments.*—Security speculation and the purchase of stocks and bonds of carriers unable to pay dividends or interest has been one of the principal causes which led to the appointment of



receivers in the case of the Wabash; St. Louis & San Francisco; Chicago, Rock Island; Missouri Pacific; Iron Mountain; Toledo, St. Louis & Western; Pere Marquette; and Cincinnati, Hamilton & Dayton.

As illustrations of unprofitable investments, reference is here made to the Wabash's acquisition of the Wheeling & Lake Erie and its endeavor to get into Pittsburgh over the lines of the Wabash Pittsburgh Terminal Co.; to the St. Louis & San Francisco's entrance into Chicago through the purchase of a controlling interest in the Chicago & Eastern Illinois; to its endeavors to gain access to the Gulf through the New Orleans, Texas & Mexico and affiliated companies; to the Toledo, St. Louis & Western in acquiring control of the Chicago & Alton; to the Missouri Pacific's financing of the various Gould projects; and to the Cincinnati, Hamilton & Dayton purchase of 110,000 shares of stock of the Pere Marquette at \$125 per share, which later were sold at \$23 per share, resulting in a loss of more than \$12,000,000.

Each of the foregoing companies, as well as the Chicago, Rock Island & Pacific and the Pere Marquette, suffered severe losses through stock manipulation and conversion of stock into fixed interest bearing obligations.

4. *Floods*.—The New Orleans, Mobile & Chicago; Missouri, Kansas & Texas; and Cincinnati, Hamilton & Dayton sustained heavy losses at various times on account of floods. In 1913 the Cincinnati, Hamilton & Dayton lost through floods 9 bridges, 61 miles of track, numerous station buildings, and had to practically suspend business for several months. Up to June 30, 1914, the Baltimore & Ohio had expended in behalf of the Cincinnati, Hamilton & Dayton to repair flood damages the amount of \$1,277,933.18. This, of course, does not take into account any losses due to suspension of traffic.

5. *War*.—The International & Great Northern; St. Louis, Brownsville & Mexico; and New Orleans, Texas & Mexico earnings have been seriously affected for the past few years by the unsettled conditions in Mexico. It was the hope of B. F. Yoakum, in charge of the St. Louis & San Francisco in 1912, to develop a large Mexican traffic. To this end agreements were entered into with the national lines of Mexico. Because of the activities of the Mexican revolutionists not only has the traffic of the Mexican lines been seriously interfered with, but likewise the Texas lines have suffered severely because of lack of interchange of traffic.

The construction of the Missouri, Oklahoma & Gulf was undertaken by Boston and French capitalists. First the Boston interests withdrew their support, and after the outbreak of the European war the French bankers were unable to continue to advance funds to assure the completion of this project. The earnings of the portion of the line completed being inadequate to pay interest, a receiver was appointed.

6. *Panics*.—There is little question but that the panic of 1907-8 prevented the refunding of the Wheeling & Lake Erie \$8,000,000 three-year notes in 1908. The general depression in 1913-14, coupled with the outbreak of the European war, produced a money-market condition which was unfavorable to the refunding of large issues of short-term notes, such as the Rock Island, Missouri Pacific, Boston & Maine, and others, or to the sale of bonds other than at ruinous discounts.

7. *Unwarranted extensions into new territory*.—It is conceded by all that railroads are not charitable institutions. Investments are made in these enterprises with a view of profit. The amount of traffic handled is in the end the only criterion by which the investment can be justified. Applying this criterion, it is doubtful whether any real necessity existed for the construction of the Western Pacific, New Mexico Central, Georgia & Florida, Wabash Pittsburgh Terminal, or the Colorado Midland.

8. *Charter restrictions*.—The Wall Street Journal states that the Federal charter is responsible for the receivership of the Texas & Pacific. This is the only road operating under a Federal charter at this time. The charter was granted by an act of Congress March 3, 1871. It provides that the company may issue two classes of bonds—construction and land bonds. The former may be issued in amounts not exceeding \$30,000 per mile; the latter in amounts not to exceed \$2.50 per acre of land granted by the Federal Government in aid of constructing the road.

While the Federal charter may have prevented the Texas & Pacific from engaging in a method of financing such as the Rock Island and Missouri Pacific, it did not prevent the company from issuing \$24,660,975 of 5 per cent income bonds. Of this issue, the St. Louis, Iron Mountain & Southern, a subsidiary of the Missouri Pacific, owned \$23,703,000 at the time of the appointment of the receiver.

Deferred maintenance, an endeavor to pay interest on income bonds when it was not earned, and inefficient operation rather than the Federal charter seem to have led to the appointment of a receiver for the Texas & Pacific.

9. *Failure of banks.*—Several of the smaller roads appear to have been thrown into the hands of receivers through the failure of banks, construction companies, or promoters. Reference is made to the New Mexico Central, Missouri, Oklahoma & Gulf, and Atlanta, Birmingham & Atlantic.

10. *Trust-deed restrictions.*—There are those who trace the receivership of the Wabash Railroad to its debenture mortgage of 1889. In brief, this instrument provided for the issue of series A and series B income bonds. Series A were callable at par, while no provision was made to call the Series B. Before setting aside any earnings to pay interest on the income bonds, the board of directors had to provide for the payment of operating expenses, maintenance, renewals, interest, sinking fund, and increase of equipment commensurate with the business requirements of the company. Because of this provision, the Wabash board of directors felt it incumbent upon themselves to invest the net earnings of the company in extensions and equipment rather than to pay interest on income bonds. As the years passed by, the series B income bondholders became dissatisfied and threatened to initiate legal proceedings to determine whether the earnings of the company did not justify the payment of interest on their bonds. Rather than to fight such proceedings in the courts, the Wabash management concluded to refund the income bonds through the issue of 4 per cent first refunding extension bonds. The holder of a \$1,000 series A income bond received—

1. First refunding 4 per cent bonds.....	\$795.00
2. Preferred stock.....	580.00
3. Common stock.....	580.00

The holder of a \$1,000 series B income bond received—

1. First refunding 4 per cent bonds.....	\$720.00
2. Preferred stock.....	520.00
3. Common stock.....	520.00

While the debenture mortgage of 1889 may have necessitated the investment of earnings, experience has demonstrated that such a procedure was preferable to the conversion of the income bonds into 4 per cent bonds, preferred and common stock.

11. *Reduction in rates*—12. *Increase in wages and taxes*—13. *Restrictive legislation.*—Railroad presidents, in explaining to stockholders why their companies are unable to pay dividends, invariably referred to the reduction in rates by regulatory or legislative bodies, to the increase in wages and taxes, and to the imposition of additional noncompensatory burdens by legislatures. Very seldom do they refer to the increase in fixed charges. Rarely is any reference made to the low loading of freight cars, the lack of operating efficiency, to excessive damage claims, expensive leases, or unprofitable investments in stocks and bonds of other carriers.

Expensive leases and unprofitable investments have frequently been abrogated through reorganization. For example, the St. Louis & San Francisco reorganization excluded the Chicago & Eastern Illinois and the New Orleans, Texas & Mexico and affiliated companies, sometimes referred to as the "Southern Texas lines."

During the receivership of the St. Louis & San Francisco the average train-load-revenue ton was increased from 281 in 1912-13 to 334 in 1915-16.

In the case of the Chicago, Rock Island & Pacific, Receiver Dickinson reduced the freight loss and damage claims from \$1,285,100 in 1914-15 to \$882,076 in 1915-16, or by the sum of \$403,024. In 1915-16 the average revenue tons of freight per train was 424 as compared with 394 for the preceding year. The cost of handling less-than-carload freight was reduced from 37.99 to 37.59 per ton through the purchase of up-to-date equipment.

Contrast the achievements of Receiver Dickinson with the allegations of H. U. Mudge, president of the Rock Island, when, in 1914, he told the stockholders that the primary causes for the failure to pay dividends were:

1. Reduction in rates.
2. Increase in wages.
3. Increased expenses due to legislative enactment.
4. Increased taxes per unit of value.
5. Increased cost of capital funds.

14. *Deferred maintenance and improvements.*—In the majority of instances railroad properties have been turned over to the receivers in a depreciated condition. This condition is the logical result of the management endeavoring to pay dividends or interest when such payments are not earned. The amounts which experts have advised reorganization committees to raise to insure a successful reorganization run into millions. The rehabilitation program of the Chicago, Rock Island & Pacific, as outlined by J. W. Kendrick, calls for an expenditure of \$27,204,000 up to June 30, 1919. This consists of:

Grade revision for new lines, sidings, and second track ..	\$6,008,000
New freight locomotives ..	1,000,000
Improvements to existing equipment (cars and engines) ..	3,442,000
Rails ..	750,000
Ballast and bank widening ..	3,587,000
Tie plates ..	3,000,000
Yards and terminals ..	2,207,000
Track motor cars ..	176,000
Bridges ..	280,000
Track elevation and grade separation ..	3,392,000
Advances ..	309,000
Telegraph and telephones ..	275,000
Signals ..	291,000
Miscellaneous ..	2,487,000
Total ..	27,204,000

It should be noted that J. W. Kendrick makes no provision to pay matured notes, receiver's certificates, reorganization expenses, or working capital, for which the reorganization plan provided an additional \$29,743,889.

The Missouri, Kansas & Texas, J. W. Kendrick estimated should expend within the next eight years the sum of \$64,764,750 for the following purposes:

Standardization, drainage, and protection of roadbed ..	\$1,265,000
Rail replacement ..	4,535,000
Ballast ..	4,085,000
Bridges ..	962,000
Replacing wooden trestles and culverts ..	1,481,000
Yard, industry, and passing tracks ..	2,060,000
Water stations ..	547,000
Fuel stations ..	195,000
Buildings, scales, crossings, assessments ..	1,786,000
Fencing and cattle guards ..	350,000
Shops, roundhouses, and machinery ..	2,745,000
Signals, telegraph, telephone, etc ..	2,193,000
Track motor cars ..	70,000
Rock crushers ..	95,000
Grade revisions, new projects, and extensions ..	14,075,000
Unanticipated ..	2,186,800
Equipment ..	26,133,750
Total ..	64,764,550

Here again, no allowance is made to pay short-term notes and reorganization expenses in excess of \$25,000,000.

Other instances might be cited, but we believe it is sufficient in this introductory statement if attention is called to the fact that the reorganization plan of the St. Louis & San Francisco provided for \$25,000,000 cash; the Wabash for \$27,720,000; Wabash Pittsburgh Terminal for \$9,070,800; the Wheeling & Lake Erie for \$9,984,708; the Western Pacific for \$18,600,000; Missouri Pacific-Iron Mountain for \$41,419,792; and the Pere Marquette for \$16,000,000.

15. *Competition.*—The competition which a road like the Western Pacific, or the Wabash Pittsburgh Terminal, or the Missouri, Kansas & Texas, or the Chicago Eastern Illinois, or the Chicago, Peoria & St. Louis, or the Texas & Pacific, has to encounter is not conducive to financial success. Add to this competition, a top-heavy financial structure and there is little wonder for the appointment of receivers for these properties.

16. *Unprofitable and burdensome leases.*—The Boston & Maine officials are inclined to the idea that its leases are too burdensome and must be abrogated in some manner. The company owns 707 miles and operates under lease



1,515 miles. In addition to leasing a large portion of its mileage operated, it hires a large part of its equipment. The amount expended for lease of road and hire of equipment in 1906, as compared with 1915 and 1916, is shown in the following statement:

Item.	1906	1915	1916
Interest on bonded debt.....	\$1,366,834.62	\$1,754,980.00	\$1,754,980.00
Other interest.....	107,815.81	1,271,581.00	970,497.25
Rent paid for leased road.....	5,074,554.26	5,589,405.41	5,626,028.77
Rent paid for equipment.....		1,665,116.66	2,542,988.63
Other rents.....		8,177.70	17,103.40
Sinking funds.....	136,285.00	28,785.00	82,004.13
Miscellaneous.....		5,944.26	2,624.23
Total.....	6,685,509.69	10,323,990.03	10,996,226.41

The names of the roads whose properties have been leased, as well as the revenues and expenses of the Boston & Maine from 1906 to 1916, both years inclusive, appear in another part of this report.

The Railway Age Gazette, volume 61, page 1183, shows a summary of foreclosure sales during the past 41 years, as follows:

Year.	Number of roads.	Miles.	Bonds and stocks.	Year.	Number of roads.	Miles.	Bonds and stocks.
1876.....	30	3,840	\$217,848,000	1897.....	42	6,675	\$517,680,000
1877.....	54	3,875	198,984,000	1898.....	47	6,054	252,910,000
1878.....	48	3,906	311,631,000	1899.....	32	4,294	267,534,000
1879.....	65	4,909	243,288,000	1900.....	24	3,477	190,374,000
1880.....	31	3,775	263,882,000	1901.....	17	1,139	85,808,000
1881.....	29	2,617	137,923,000	1902.....	20	693	39,788,000
1882.....	16	867	65,426,000	1903.....	13	555	15,885,000
1883.....	18	1,354	47,100,000	1904.....	13	524	28,266,000
1884.....	15	710	23,504,000	1905.....	6	679	20,307,000
1885.....	22	3,156	278,394,000	1906.....	8	262	10,400,000
1886.....	45	7,687	374,109,000	1907.....	6	114	13,777,000
1887.....	31	5,478	328,181,000	1908.....	3	138	2,547,000
1888.....	19	1,596	64,555,000	1909.....	12	2,629	250,033,000
1889.....	25	2,930	137,815,000	1910.....	17	1,100	93,660,109
1890.....	29	3,825	182,495,000	1911.....	13	1,384	40,741,433
1891.....	21	3,223	169,069,000	1912.....	12	661	25,910,990
1892.....	28	1,922	95,898,000	1913.....	6	1,159	86,163,850
1893.....	25	1,613	79,924,000	1914.....	9	1,470	83,189,500
1894.....	42	5,643	318,999,000	1915.....	11	3,914	285,258,782
1895.....	52	12,831	761,791,000	1916.....	26	8,355	703,444,855
1896.....	58	13,730	1,150,377,000				

The Railway Age Gazette, volume 61, page 1183, published a summary of receiverships of steam railroads for the past 41 years. The summary shows the following:

Year.	Number of roads.	Miles.	Bonds and stocks.	Year.	Number of roads.	Miles.	Bonds and stocks.
1876.....	42	6,662	\$467,000,000	1897.....	18	1,537	\$92,909,000
1877.....	38	3,637	220,294,000	1898.....	18	2,069	138,701,000
1878.....	27	2,320	92,385,000	1899.....	10	1,019	52,285,000
1879.....	12	1,102	39,367,000	1900.....	4	1,165	78,234,000
1880.....	13	885	140,265,000	1901.....	15	73	1,627,000
1881.....	5	110	3,742,000	1902.....	5	278	5,835,000
1882.....	12	912	39,074,000	1903.....	9	229	18,823,000
1883.....	11	1,990	108,470,000	1904.....	8	744	36,069,000
1884.....	37	11,038	714,755,000	1905.....	10	3,593	176,321,000
1885.....	44	8,836	385,460,000	1906.....	6	204	55,042,000
1886.....	13	1,799	70,346,000	1907.....	7	317	13,585,000
1887.....	9	1,046	90,318,000	1908.....	24	8,009	596,359,000
1888.....	22	3,270	186,814,000	1909.....	5	859	78,095,000
1889.....	22	3,803	99,664,000	1910.....	7	735	51,427,500
1890.....	26	2,963	105,007,000	1911.....	5	2,606	210,606,882
1891.....	26	2,159	84,479,000	1912.....	13	3,784	182,112,497
1892.....	36	19,508	357,692,000	1913.....	17	9,090	477,780,820
1893.....	74	29,340	1,781,046,000	1914.....	22	4,222	199,571,446
1894.....	38	7,025	395,791,000	1915.....	12	20,143	1,070,808,628
1895.....	31	4,089	369,075,000	1916.....	9	4,439	208,159,689
1896.....	34	5,441	275,597,000				

## RECEIVERSHIP OF ATLANTA, BIRMINGHAM &amp; ATLANTIC RAILROAD CO.

Flagrant overcapitalization, limited funds of promoters, and the business depression following the panic of 1907 appear to have caused the downfall of the Atlanta, Birmingham & Atlantic Railroad Co. That the capitalization of this company was excessive is evidenced by the reorganization plan put into effect on January 1, 1916. This plan reduced the capital stock from \$35,000,000 to \$30,000,000, or from \$54.517 to \$46.948 per mile; reduced the funded debt from \$24,264,407 to \$9,290,000, including \$5,200,000 of income bonds, or from \$38.419 to \$14.538 per mile. The total capitalization was reduced by approximately \$20,400,000, of which 75 per cent represents a reduction in the outstanding bonds. Fixed charges, exclusive of taxes, were reduced from \$1,398,834 to \$345,984, or from \$2.179 to \$.541 per mile. On June 30, 1915, the outstanding bonds represented 59 per cent of the total capitalization; on June 30, 1916, 24 per cent of the total capitalization of this company.

The Atlanta, Birmingham & Atlantic Railroad Co., hereinafter referred to as the Atlanta company, was organized April 21, 1905, under the laws of Georgia. The company was conceived and promoted by Boston and Atlanta capitalists. They contemplated the development of a harbor at Brunswick, Ga., connect the same with Atlanta, Ga., and Birmingham, Ala., divert transcontinental traffic from Savannah, Ga., to Brunswick, Ga., thereby shortening the transcontinental route by 200 miles, and operate a line of steamers between Brunswick, Ga., New York, and Boston. The project involved the acquisition of lines of railway owned by the Atlantic & Birmingham Railway Co., the construction of terminals at Atlanta, Ga., and Birmingham, Ala., and the acquisition of steamers.

Shortly after its incorporation the Atlanta company entered upon negotiations to acquire the properties of the Atlantic & Birmingham Railway Co., owning a line of railway from Brunswick, Ga., to Montezuma. These properties were acquired in 1906, the Atlanta company assuming the payment of \$4,090,000 of bonds and issuing as part payment for the property \$1,970,000 of its first-mortgage bonds in exchange for a like amount of Atlantic & Birmingham Co.'s preferred stock (three-year interest coupons detached from bonds), \$2,462,000 of Atlanta company's preferred stock, and \$4,923,800 of common stock in exchange for \$4,923,800 of common stock of the Atlantic & Birmingham Railway Co. At the same time the company proceeded with its plans to extend the lines of the Atlantic & Birmingham Railway Co. west from Montezuma for a distance of about 322 miles. At the same time that the construction work was being prosecuted those in charge took active steps to acquire and develop the terminal properties at Birmingham, Ala., and Atlanta, Ga. They also persuaded friendly interests to organize the Brunswick Steamship Co., which was to operate a line of steamers from Brunswick, Ga., to New York and Boston. The construction of the new line was undertaken by the Atlanta & Birmingham Construction Co., hereinafter referred to as the construction company.

On May 1, 1907, the construction company authorized an issue of \$8,000,000 five-year collateral notes, being the joint obligation of the construction company and the Atlanta company. The notes of this company were underwritten by Clark, Dodge & Co. and offered to the public at 96. The payment of the notes was secured by the following collateral:

Brunswick Steamship Co. bonds.....	\$1, 000, 000
Brunswick Steamship Co. common stock.....	1, 000, 000
Atlanta company equipment notes.....	1, 206, 000
Birmingham Coal & Iron Co. stock.....	3, 000, 000
Atlanta company first-mortgage bonds.....	6, 000, 000
Atlanta company common stock.....	10, 000, 000
Atlanta company preferred stock.....	4, 600, 000

The Interstate Commerce Commission in its tentative valuation of the properties of the Atlanta company finds that it issued to the construction company \$19,976,200 of its common stock and \$7,538,000 of its preferred stock and \$14,443,000 of its first mortgage 5 per cent bonds.

Georgia Terminal Co. was organized to acquire and develop 200 acres of land for terminal purposes at Atlanta, Ga. The terminal company has an authorized capital of \$1,500,000, of which \$500,000 was sold to the construction company for each, and \$1,000,000 was issued to the construction company in exchange for property. The terminal company also issued \$3,000,000 of first

mortgage 5 per cent bonds of which \$2,989,000 were delivered to the construction company in payment for property and \$911,000 were sold at 85, realizing \$774,350 in cash, which was used for construction purposes. Reference will hereafter be made to the cost of the properties of the terminal company.

For the purpose of acquiring and developing terminal properties at Birmingham, Ala., the construction company caused the organization of the Alabama Terminal Railroad Co., hereinafter referred to as the Alabama company. This company has \$3,000,000 of capital stock outstanding, \$2,000 of which was issued for cash at par and \$2,998,000 together with certain bonds were issued to the construction company in exchange for the properties above mentioned. One million two hundred and forty-five thousand dollars of bonds were sold to the construction company at 85, netting \$1,058,250.

Receivers' certificates amounting to \$4,994,000 and a note for \$110,000, being the joint obligations of the Atlanta company, the terminal company, and the Alabama company, are also outstanding.

In a letter of May 15, 1907 (Commercial and Financial Chronicle, vol. 84, p. 1427), H. A. Atkinson, president of the Atlanta company, estimated the gross earnings after the road is completed and has had time to build up business, as follows:

Gross .....	\$7,785,600
Net .....	2,335,680
Interest .....	1,005,640
Surplus .....	1,330,040

He further called attention to the sale of the following bonds:

Georgia Terminal Co. bond .....	\$3,000,000
Alabama Terminal Co. bonds .....	2,500,000
Birmingham Coal & Iron Co. bonds .....	2,000,000
Atlanta company first mortgage bonds .....	2,000,000

Continuing, he says: "This completes the financing of the enterprise and provides funds to finish extensions, to pay for steamships, a substantial amount for equipment, shop, coal and iron projects, and improvements, and will complete the water terminals at Brunswick and pay for additional freight steamer and many other items of construction."

As against Atkinson's estimated gross revenue of \$7,700,000, one finds that the earnings of this system during 1916 were \$3,000,000; the net revenue was \$590,000, as compared with the estimate of \$2,300,000, and the surplus overcharges \$150,000, as compared with the \$1,300,000 estimated by the president of the road in 1907.

During 1907 and 1908 the earnings of the company were inadequate to pay the fixed charges. Stockholders of the construction company from time to time advanced the moneys necessary to pay the interest on the bonds and other indebtedness.

On January 2, 1909, receivers were appointed to take possession of the property of the Atlanta company. Shortly thereafter receivers were also appointed to take possession of the properties of the terminal company and the Alabama company. The properties of these two companies have been operated by receivers from 1909 to January 1, 1916. The reorganization plan, as above stated, called for a reduction in the indebtedness of the company and a corresponding reduction in the fixed charges. The plan further called for a consolidation of the properties owned by the Atlanta, Birmingham & Atlantic Railroad Co., the Georgia Terminal Co., and the Alabama Terminal Railroad Co. The properties of these companies have been sold at foreclosure sale and acquired by the newly acquired Atlanta, Birmingham & Atlantic Railway Co.

The reorganization plan summarized in Moody's Manual of Railroads and Corporation Securities (1916, p. 50) shows the indebtedness of the old company and the capitalization of the new company, as follows:

Old company:	
Atlantic & Birmingham 5s .....	\$4,090,000
Equipment obligations .....	1,266,306
Receiver's certificates .....	4,695,000
Other obligations of receiver .....	497,625
Atlanta, Birmingham & Atlantic Railroad Co.'s 5s .....	14,443,000
Georgia Terminal Co.'s 5s .....	3,000,000
Alabama Terminal Railroad Co.'s 5s .....	2,445,000



## Old company—Continued.

Atlanta, Birmingham & Atlantic Railroad preferred stock.....	\$10,000,000
Atlanta, Birmingham & Atlantic Railroad Co. common stock....	25,000,000
<b>Total</b> .....	<b>65,436,931</b>
<b>Total annual fixed charges as of June 30, 1915</b> .....	<b>1,515,222</b>
<b>Total annual fixed charges per mile of road operated</b> .....	<b>2,366</b>

## Capitalization of new company:

Atlantic & Birmingham Co.'s 5s .....	4,090,000
First and refunding bonds (none to be issued), 15-year 5 per cent income bonds .....	5,200,000
Common stock .....	30,000,000
<b>Total</b> .....	<b>39,290,000</b>
<b>Total annual fixed charges</b> .....	<b>204,500</b>
<b>Total annual fixed charges per mile of road operated</b> .....	<b>321</b>
Disposition of new securities—	
(a) First and refunding 5 per cent bonds .....	No present issue.
(b) 15-year 5 per cent income bonds .....	5,200,000
To holders of receiver's certificates at par for face amount of certificates .....	4,476,000
Interest on receiver's certificates July 1, 1914, to Nov. 1, 1915 .....	358,080
To retire an equal amount of equipment trust bonds .....	146,000
Sold at par for cash to provide \$100,000 paid in court in connection with foreclosure sale .....	100,000
Sold at par for cash to pay additional interest on receiver's certificates .....	50,000
Interest on the preceding items to Nov. 1, 1915 .....	19,434
Retained to treasury of new company .....	50,486
(c) Common stock sold to syndicate to provide cash requirements .....	30,000,000

The syndicate has agreed to acquire the \$30,000,000 of common stock at \$12 per share, netting the company \$3,000,000, which was to be used for the following purposes: \$1,105,492 to pay obligations of receiver for equipment acquired during receivership, tax loans, claims, and judgment interest, etc.; \$930,237 to retire outstanding equipment obligations issued prior to receivership without interest; \$66,000 legal expenses of counsel for trustees in foreclosure proceedings; \$185,225 to pay reorganization expenses, including trustee's fees and disbursements; \$84,546 to pay expenses of receivers' certificates and the organizing of the new company and negotiation for underwriting; \$12,500 for compensation of receiver and his counsel; \$216,000 commission to syndicate managers and underwriting syndicate; \$900,000 for working capital, improvements, and repair of equipment.

The construction company notes in the sum of \$6,000,000 were offered by Clark, Dodge & Co. at 96, and \$2,000,000 at 96½. The notes were the joint obligation of the Atlanta & Birmingham Construction Co. and Atlanta, Birmingham & Atlantic Railroad Co. They matured on May 1, 1910. At that time the stockholders raised \$800,000, of which \$194,975 was used to pay interest on the notes, the balance to pay part of the principal.

Under date of April 30, 1910, the note holders' committee requested the note holders to extend the payment of the notes for two years, for the reason that the stockholders would guarantee the payment of the interest, while the payment of the notes would be covered by the reorganization plan of Atlanta, Birmingham & Atlantic Railroad Co.

In May, 1912, about 98 per cent of the holders of the \$6,216,800 notes outstanding agreed to a three-year extension, and further agreed that the reorganization plan of the railroad company need not provide for the payment of the notes. Additional collateral was deposited to secure the payment of the notes, including \$4,000,000 of stock of Woodward Iron Co., successor to Birmingham Coal & Iron Co. A circular of December 15, 1915 (Commercial and Financial Chronicle, Jan. 22, 1916, p. 347), reads, in part, as follows:

Every one of the (\$5,761,000) notes having been deposited under the protective agreement of April 1, 1915, the committee has caused the "Noteholders Liquidation Co." to be incorporated in Delaware, with a capital stock of \$720,125 (par of shares, \$25), and has transferred to that company all the securities and cash held by the committee as the result of the purchase at foreclosure sale, except the 40,000 shares of the Woodward Iron Co., viz:

(a) \$59,000 cash, no charge for services having been made by the committee.  
(b) \$1,000,000 stock and \$700,000 first mortgage 5 per cent bonds of Brunswick Steamship Co.

(c) \$5,005,000 first and refunding 5 per cent bonds of Atlanta, Birmingham & Atlantic Railroad Co.

The 40,000 shares of Woodward Iron Co. stock and all the stock of the "Noteholders Liquidation Co." will now be distributed to the note holders as follows: For each \$1,000 note represented by trust certificates the holder will receive—

(a) Six shares of the fully paid stock of Woodward Iron Co., par \$100 per share, and cash at the rate of \$50 per share for the \$94.32 stock scrip of that company to which he is entitled.

(b) Five shares of fully paid stock of "Noteholders Liquidation Co." The property of the Atlanta, Birmingham & Atlantic Railroad Co. has been sold under foreclosure. From the sale nothing was realized for the capital stock.

Under date of January 14, 1916, the note holders were advised that the "Noteholders Liquidation Co." as the owner of \$5,005,000 first and refunding bonds of the railroad company, was entitled to 60,415 shares of the capital stock of the new Atlanta, Birmingham & Atlantic Railway Co. This right is all that is of value accruing from the ownership of first and refunding bonds. Inasmuch as the "Noteholders Liquidation Co." has no funds to subscribe for stock, its stockholders are entitled to subscribe for shares of railway stock at \$12 per share.

The revenues and expenses of the Atlanta company are reported as follows (see p. 11):

*Operating statistics per mile of road.*

[Data from Moody's Analyses of Investments, 1917.]

Year ended June 30—	Average miles operated.	Gross revenues.	Maintenance.			All other operating expenses.	Net operating revenues.	Total net income.	Taxes accrued.	Balance for charges.	Fixed charges.	Surplus
			Way.	Equipment.	Total.							
1907....	393	\$4,041	\$594	\$544	\$1,138	\$1,837	\$1,066	\$1,106	\$88	\$1,018	\$893	\$125
1908....	491	3,226	515	519	1,034	1,323	869	1,147	92	1,055	964	91
1909....	630	3,284	440	582	1,022	1,696	567	735	138	597	1,877	1,280
1910....	654	3,944	483	630	1,113	1,945	886	1,054	188	806	1,856	1,990
1911....	662	4,246	537	671	1,208	2,036	1,001	1,201	198	1,003	1,983	1,989
1912....	662	4,904	549	853	1,402	2,479	1,023	1,079	262	817	1,994	1,177
1913....	654	4,959	810	799	1,609	2,484	866	944	251	693	1,978	1,285
1914....	646	5,262	835	840	1,675	2,607	980	1,054	266	788	1,992	1,204
1915....	642	4,138	657	806	1,463	2,235	440	527	229	298	2,179	1,881
1916....	639	4,776	741	870	1,611	2,230	935	1,039	248	791	541	250
Average...	607	4,278	616	711	1,327	2,088	863	989	196	793	1,626	1,833

<sup>1</sup> Deficit.

The capitalization of the Atlanta Co. is reported as follows (see p. 13) :

*Capitalization per mile.*

[Data from Moody's Analyses of Investments.]

Year ended June 30—	Stock outstanding.		Bonds outstanding.		Rentals capitalized at 5 per cent.	Total gross capital.	Owned by company as per balance sheet.	Net capitalization.
	<i>Amount.</i>	<i>Per cent of whole.</i>	<i>Amount.</i>	<i>Per cent of whole.</i>				
1907.....	\$89,058	72	\$34,943	28	.....	\$124,001	\$214	\$123,787
1908.....	71,283	62	43,717	38	.....	115,000	9,181	105,819
1909.....	55,555	62	33,871	38	5,873	95,299	7,315	87,984
1910.....	53,517	63	31,345	37	5,725	90,587	6,892	83,695
1911.....	52,870	63	30,856	37	8,138	91,864	6,810	85,054
1912.....	52,870	63	30,355	37	8,138	91,363	6,830	84,533
1913.....	53,517	59	37,497	41	8,878	99,892	6,881	93,011
1914.....	54,180	59	38,019	41	8,429	100,628	6,966	93,662
1915.....	54,517	59	38,419	41	8,481	101,417	7,009	94,408
1916.....	46,948	76	14,538	24	4,261	65,747	.....	65,747
10-year average.....	58,432	64	33,356	36	5,792	97,580	5,810	91,770

NOTE.—The capitalization figures prior to 1916 are those of the old company.

The tentative valuation of the Atlanta, Birmingham & Atlantic Railway Co. and affiliated companies by the Interstate Commerce Commission shows the following :

A. ATLANTA, BIRMINGHAM & ATLANTIC RAILWAY CO.

Stock outstanding, common.....	\$25,000,000.00
Stock outstanding, preferred.....	10,000,000.00
Bonds outstanding.....	18,533,000.00
Equipment notes.....	1,028,000.00
Receiver's certificates, joint obligation of railroad company and Georgia Terminal Co. and Alabama Terminal Co.....	4,994,000.00
Due construction company.....	404,269.57
Due receivers for payment of interest taxes, etc.....	1,264,686.89
Due receivers for additions and betterments.....	1,284,006.44
Miscellaneous.....	10,176.14
Total capitalization and debt.....	62,518,139.04
Investment in road and equipment June 30, 1914.....	53,325,751.58
Cost of property constructed by construction company as per construction company books.....	16,946,758.89
Cost of same property per Atlanta Co. books.....	36,211,204.44
Difference.....	19,264,445.55
Cost of property purchased from Atlantic & Birmingham Railway Co. as per its books.....	11,492,520.77
Cost of same property to Atlanta Co.....	13,795,606.81
Difference.....	2,303,086.04
Common-carrier property of Atlanta Co.:	
Reproduction cost, exclusive of lands.....	22,716,886.00
Reproduction cost less depreciation, exclusive of lands.....	18,071,950.00
Present value of lands.....	1,091,886.00
Total present value.....	19,163,836.00
Excess of stock, bonds, and debt over present value.....	43,354,303.00
Excess of book cost over present value.....	34,161,915.00



## B. GEORGIA TERMINAL CO.

Stock outstanding-----	\$1, 500, 000. 00
Bonds outstanding-----	3, 000, 000. 00
Investment in road June 30, 1914-----	4, 870, 081. 86
Cost of same property to construction company-----	2, 842, 465. 76
Difference-----	2, 027, 616. 10
Common-carrier property:	
Cost of reproduction, new-----	903, 270. 00
Cost of reproduction, less depreciation-----	830, 316. 00
Present value of lands-----	604, 459. 00
Total present value of common-carrier property-----	1, 434, 775. 00
Noncommon-carrier lands-----	853, 811. 00
Grand total, present value-----	2, 288, 576. 00

## C. ALABAMA TERMINAL RAILROAD CO.

Stock outstanding-----	3, 000, 000. 00
Bonds outstanding-----	2, 445, 000. 00
Investment in road June 30, 1914-----	6, 681, 360. 77
Cost of same property to construction company-----	3, 192, 458. 55
Difference-----	3, 488, 902. 22
Common-carrier property:	
Cost of reproduction, new-----	1, 493, 985. 00
Cost of reproduction, less depreciation-----	1, 367, 411. 00
Present value of lands-----	661, 331. 00
Total present value-----	2, 028, 742. 00
Noncommon-carrier land-----	166, 438. 00
Total present value-----	2, 195, 180. 00

*Summary of valuation of property of Atlanta, Birmingham & Atlantic Railway Co., Georgia Terminal Co., and Alabama Terminal Co.*

A. Common-carrier property:	
Reproduction cost, new-----	\$24, 325, 752. 00
Reproduction cost, less depreciation-----	19, 520, 176. 00
Present value of lands-----	2, 282, 785. 00
Total present value-----	21, 802, 961. 00
B. Present value of noncommon-carrier lands-----	1, 020, 249. 00

## APALACHICOLA NORTHERN RAILROAD COMPANY.

[Data from Moody's Manual of Railroads and Corporation Securities.]

Organized in 1903 under laws of Florida; road opened in 1907. Receiver appointed in July, 1907. Receiver discharged and property restored to company in October, 1908. No foreclosure sale.

Line owned: River Junction to Port St. Joe, Fla., 97.13 miles; side tracks, 4.89 miles. Total owned, 102.02 miles.

Operated under contract: Atlantic Coast Line—River Junction to Climax, Ga., 30 miles; total miles operated, 132.02; stock issued and outstanding, \$3,000,000; bonds issued and outstanding, \$2,000,000.

Receiver: On May 27, 1914, L. H. Dimmitt appointed receiver on application of Illinois State Trust Co., East St. Louis, Mo., trustee of the \$2,000,000 first mortgage 5 per cent bonds. Trust company alleged that the company defaulted in interest payment. On February 21, 1916, the receivership was terminated without foreclosure proceedings.

Ownership of stock and bonds: During April, 1916, entire stock issue, \$3,000,000, formerly owned by St. Joe Bay Co., was purchased by Henry C. Hoarstick, Albert T. Perkins, and Daniel N. Kirby as a committee for the bondholders. The same committee purchased all of the \$2,000,000 bonds formerly owned by St. Joe Bay Co.

Revenues and expenses are reported as follows:

Item.	1911	1912	1913	1914	1915	1916
Freight earnings.....	\$109,088	\$148,557	\$160,481	\$133,696	\$90,999	\$124,796
Passenger earnings.....	58,721	78,000	72,659	63,143	31,358	41,376
Total earnings.....	184,003	236,475	261,740	226,752	144,335	189,635
Operating expenses.....	181,455	152,673	172,790	164,715	120,923	157,267
Taxes.....	7,600	9,960	10,950	11,459	10,800	12,860
Net earnings.....	44,888	73,842	78,000	50,587	9,612	19,508
Other income.....	4,019	37	5,713	9,206	13	5,117
Charges.....	1,982	2,534	102,689	103,730	104,539	110,663
Deficit.....	46,825	71,315	18,976	43,937	94,914	86,038

+ Surplus: bond interest of \$100,000 per annum not deducted.

The assets and liabilities of the company as of June 30, 1916, are reported as follows:

#### ASSETS.

Stock and equipment.....	\$4,420,406
Stocks and bonds owned.....	450,513
Materials and supplies.....	25,605
Cash.....	24,185
Bills receivable.....	20,378
Current accounts.....	23,526
Deferred debit items.....	60,591
Profit and loss.....	759,502
Total assets.....	5,784,706

#### LIABILITIES.

Stock.....	3,000,000
Bonds.....	2,000,000
Interest and taxes accrued.....	730,131
Current liabilities.....	27,442
Unadjusted credits.....	1,397
Deferred credit items.....	25,736
Total liabilities.....	5,784,706

The earnings of the company are inadequate to pay fixed charges.

#### RECEIVERSHIP OF BOSTON & MAINE RAILROAD.

In April, 1906, Boston & Maine Railroad's common stock sold at \$180.50 per share on the Boston Stock Exchange, while in 1917, the stock dropped to \$24 per share. During the period of 10 years the value of Boston & Maine common stock declined \$156.50 per share.

In 1906 the surplus from operations amounted to \$2,051,919.69, of which \$1,834,646 was disbursed as a dividend, while in 1916, the surplus from operations amounted to \$4,065,691.09, with the company facing receivership. The unusually large earnings for 1916 were not adequate to prevent the appointment of a receiver on August 29, 1916. From 1906 to 1912 the surplus earnings of the company gradually decreased, amounting to \$49,696.82 in 1913, while in 1914 the company suffered a deficit of \$2,044,742.01, and a deficit of \$334,462.13 in 1915. On page 47 of this report is a table showing the revenues and expenses of Boston & Maine from 1906 to 1916.

The causes of the receivership of Boston & Maine are summarized by J. H. Hustis, president, in his annual report to the stockholders for the year ending June 30, 1916, as follows:

"We have hitherto had occasion to say to you repeatedly that, in the opinion of this board, a reorganization of the Boston & Maine system offered the only practicable way in which the road could be effectively relieved from its financial difficulties. Better credit, new capital, and a safer ratio of fixed charges to income have appeared to us to be indispensable to the permanently successful operation of the system as a whole, and we have believed that these could be adequately obtained only by a consolidation of its component parts into one strong corporation. Hence we have done all we could to bring about such a reorganization by friendly negotiations and to avoid a receivership. A majority of our board has been willing to make concessions to the leased lines to accomplish this result, feeling that the ultimate gain would justify the present sacrifice.

"But with deep regret we are obliged to report that our efforts have failed. It became apparent before the meeting of our board on August 22 that a friendly reorganization, outside of a receivership, could not be accomplished on any fair basis.

"In this state of things it became necessary for us to determine what it was our duty to do. It seems hardly necessary for us to say that this board, which has fought off a receivership for nearly two years, could bring itself to accept such an outcome only with the greatest reluctance.

"But upon the most careful consideration we could give to the matter there seemed to be nothing else to do. That the road could not pay its maturing obligations was perfectly clear. The \$13,306,060 of short-term notes of the Boston & Maine and the \$2,300,000 of notes of the Vermont Valley Railroad indorsed by the Boston & Maine were sure to be overdue on the 1st day of September. On the same day claims were sure to be made against the Boston & Maine on \$2,000,000 of notes of the Connecticut River Railroad. To meet these claims amounting to about \$17,600,000 the road had \$8,107,717.26 of cash on hand and \$2,389,930 of so-called quick assets, which could probably be realized on at short notice only by a considerable sacrifice. Nor could the available cash be properly applied in part payment of these claims, for it is obvious that a road without credit must carry a considerable cash balance to meet its current operating obligations, and debts of this character to the amount of approximately \$3,000,000 must be paid between now and the 1st of January. It is clear, of course, that if all these claims were permitted to become overdue and were not extended, the company would probably be immediately overwhelmed with attachments of its property, which it would have no means of removing and which would probably seriously impede, if not prevent, its operation of the road. Sound judgment required us to take such action as would protect the road against such attachments.

"Furthermore, your officers realize that upon them is put the responsibility of seeing that the company performs its full duty of service to the public. The physical limitations of the road as a transportation agency are a matter of public record. We do not feel that under present conditions it can satisfactorily care for the business which is offered to it, much less take care of the probable growth of its traffic. Our sense of responsibility requires us to say that it is the duty of the company to put itself in a position where it can fully perform these public functions.

"It is claimed by some that we should have sought a further extension of these notes. But it seemed clear to us that we ought not to do so unless we saw in such a move some reasonable hope of permanent relief. Under the law, such notes can be extended only for short periods, not exceeding one year, and there seems to be no reasonable expectation that they could be taken care of in that time out of earnings. Funding them by the issue of stock or bonds is, of course, impossible in the present condition of the road's credit. Were we to obtain one extension it would only lead up to another, and merely perpetuate present conditions with no likelihood of permanent relief.

"It must be remembered that we have already extended many of these notes seven times. A majority of our board have thought it wise to do this as long as there was a reasonable hope of a friendly reorganization which would take care of them permanently. In fact, the prospect of such a reorganization has been the chief argument which has persuaded the note holders to extend. And there is every reason to suppose that many of them would refuse to extend further now that there is no longer hope of such reorganization. There never has been an extension yet in which some have not refused to extend, and the number of refusals would probably be very greatly increased when it is appar-



ent that one extension can only lead to another and that no extension by part of the note holders will do any good unless the number and amount of those who refuse be such that the company can justly pay them in full without seriously impairing the security of the other creditors.

"But even if practically all the holders of these notes stood ready to extend, it would not materially affect the desirability of a receiver. In the absence of any hope of a friendly reorganization the argument in favor of extension is that if given time the road may be able to pay these notes out of its own earnings. But if the present favorable conditions continued long enough to enable the road to pay this debt, it is evident that the radical difficulty with the present system will remain and our troubles will recur whenever we strike a few bad years. Assuming that it were possible for the road to work itself out of its financial difficulties by its own efforts, it is clear that it would take time to do so, and that in the meantime it should be protected from the ruinous attacks of creditors seeking to get ahead of each other in the collection of their claims. In short, if there is anything in the claim that the company can rehabilitate itself if given a chance, a receivership offers the best opportunity to try the experiments under the most favorable conditions.

"Whatever view may be taken, therefore, as to the future of the road—whether it is believed that its only safety lies in a fair and just consolidation or that it should be left to its own resources—a receivership, conducted under the direction of the court, seems equally necessary and desirable, and seems to us to guarantee equitable treatment to all parties. Believing this, we approved of the petition for a receivership brought by the Intercontinental Rubber Co. and filed in the United States district court for the district of Massachusetts on August 22, 1916, and at the meeting held that day our board unanimously voted to instruct council to admit the allegations of the petition and consent to the appointment of a receiver. We did this because it commended itself to our judgment as the best thing to do for the interests of all concerned, under the circumstances, and in taking this action we were actuated by the desire to safeguard your interests to the best of our ability. We firmly believe that time will show that we acted wisely."

In substance, the causes of the present difficulty of the Boston & Maine, as set forth by J. H. Hustis, its president, are due to short-term financing, excessive rentals paid for leased roads, and wage increases.

Reference will hereafter be made to the company's short-term debt and its leased properties.

In the opinion of the Railway Age Gazette the difficulties of the Boston & Maine are due to excessive rentals paid for leased lines rather than inadequate earnings and high operating costs. Back of the present difficulties, says the Railway Age Gazette, is the Massachusetts law, which did not permit the sale of stock of Boston & Maine at less than its market quotation. As the result of this law the company had to resort to short-term financing rather than to the sale of stock.

The Interstate Commerce Commission (vol. 27, I. C. C., p. 561) suggests that the difficulties of the Boston & Maine are due to the poor maintenance of its property because of its endeavor to continue the payment of dividends in 1906, 1907, and 1908, and the injudicious management of the properties by the New Haven & Hartford after it had acquired control of the properties in 1907. The report of the Interstate Commerce Commission indicates that the New Haven management at the time it took active charge of the Boston & Maine in 1910 realized that the properties had not been adequately maintained. It mapped out and undertook an extensive reconstruction program. It acquired motive power too heavy for the bridges and roadbed of the Boston & Maine. In the interest of economy it removed a large number of the experienced employees. The actions of the New Haven management demoralized the Boston & Maine traffic movements. The public lost its confidence in the new management.

Boston & Maine was incorporated in 1835 in New Hampshire, in 1841 in Massachusetts, and in 1843 in Maine. On January 1, 1842, Boston & Maine of New Hampshire and the Boston & Portland Railroad of Massachusetts, and the New Hampshire & Massachusetts Railroad of Maine were consolidated.

In 1845 the Boston & Maine Railroad extension, which build a line from Wilmington to Boston, was merged with and into the Boston & Maine. In 1890 the Eastern Railroad, 119 miles, and the Portsmouth, Great Falls & Conway Railroad, 73 miles, were absorbed. From time to time other small

railroads were acquired by Boston & Maine. In June, 1911, Boston & Maine acquired all of the outstanding stock of the Worcester, Nashua & Rochester Railroad, paying therefor \$150 per share, and assumed all of the company's indebtedness.

On June 30, 1916, Boston & Maine owned and operated 707.33 miles, operated under lease 1,515.4 miles, and under trackage rights an additional 28.96 miles, making a total mileage operated of 2,251.69. In addition to this mileage, the company operated electric lines having a mileage of 46.8.

The lines of the Boston & Maine and its leased roads extend in general from Boston to Rigby, Me., via Dover and Portsmouth; Boston to Groveton, N. H., via Lowell, Nashua, and Concord; Boston to Northampton, Mass.; Boston to Rotterdam Junction and Troy, N. Y., via Fitchburg and Greenfield; Springfield, Mass., to Sherbrooke, Canada, via Bellows Falls and St. Johnsbury, Vt.; Jewett, Me., to Intervale, N. H.; Westbrook, Me., to Worcester, Mass., via Rochester and Nashua, N. H.

The various critics of the financial condition of the Boston & Maine seem to agree that unless the parent company can obtain more favorable conditions under which to operate the leased properties its future success is very doubtful.

As shown by the earning statement on page 47, Boston & Maine in 1916 paid for leased roads the sum of \$5,626,028.77. This sum was distributed to the following companies:

Name of road.	Lease expires.	Rental accrued.	Portion applying to interest on debt.	Portion applying to dividend on capital stock.	Portion applying to organization, expenses, etc.
Fitchburg.....	July 1, 1999	\$2,109,722.21	\$1,156,722.21	\$943,000	\$10,000.00
Concord & Montreal.....	Apr. 1, 1986	871,593.00	286,555.00	577,948	7,000.00
Boston & Lowell.....	Apr. 1, 1986	901,025.41	279,673.41	614,352	7,000.00
Connecticut River.....	Jan. 1, 1992	565,761.65	240,431.65	323,330	2,000.00
Connecticut & Passumpsic River	Jan. 1, 1986	229,000.00	76,000.00	150,000	3,000.00
Vermont & Massachusetts.....	Jan. 1, 2873	221,600.00	27,020.00	191,580	3,000.00
Northern.....	Jan. 1, 1989	218,604.00	29,500.00	184,104	5,000.00
Manchester & Lawrence.....	Sept. 1, 1937	112,960.00	10,960.00	100,000	2,000.00
Nashua & Lowell.....	Oct. 1, 1979	73,000.00	.....	72,000	1,000.00
Lowell & Andover.....	Dec. 1, 1973	52,500.00	.....	51,500	.....
Pemigewasset Valley.....	Feb. 1, 1982	32,790.00	.....	32,490	300.00
Concord & Portsmouth.....	Jan. 1, 1961	25,000.00	.....	24,500	500.00
Massawippi Valley.....	July 1, 2869	24,000.00	.....	21,000	.....
Stony Brook.....	Jan. 1, 1989	21,500.00	.....	21,000	500.00
Wilton.....	Oct. 1, 1982	20,400.00	.....	21,400	.....
Peterborough.....	Apr. 1, 1986	15,700.00	.....	15,400	300.00
Troy & Bennington.....	In perpetuity.	15,400.00	.....	15,080	320.00
Suncook Valley.....	Jan. 1, 1916	10,551.00	.....	10,251	300.00
Kennebunk & Kennebunkport.....	May 15, 1982	2,925.00	.....	2,925	.....
New Boston.....	June 19, 1992	2,800.00	.....	2,800	.....
Newport & Richford (sublet to Montreal & Atlantic Ry.).....	Jan. 1, 1986	17,500.00	17,500.00	.....	.....
Citizens Ry. Materials Co.....	Oct. 1, 1915	83.29	.....	.....	83.29
Total.....		5,544,325.56	2,124,362.27	3,377,660	42,303.29
Additions and betterments charged as additional rental.....		51,703.21	.....	.....	.....
Grand total.....		5,626,028.77	.....	.....	.....

On June 30, 1916, Boston & Maine reported short-term notes outstanding in the amount of \$13,306,060. On June 30, 1913, the company's short-term note indebtedness amounted to \$27,000,000. The amount of short-term note indebtedness was reduced by refunding a part through the issue of 5 per cent coupon gold notes of the Maine Railways Co. The payment of the Maine Railways notes was secured by stock owned by Boston & Maine.

On June 30, 1915, the company reported short-term notes outstanding in the amount of \$24,310,000. This note indebtedness during the year was reduced as follows:

Notes settled by delivery of Maine Railways Co.'s notes.....	\$5,487,400
Notes settled by payment of verdict secured by holders as result of court proceedings.....	1,486,000

Notes extended to Sept. 2, 1915-----	17, 083, 600
Notes on which suits were pending-----	220, 000
Notes on which no action had been taken-----	33, 000
Total-----	24, 310, 000

During 1915 and 1916 adjustments in the Boston & Maine's short-term notes were reported as follows:

Notes settled by delivery of Maine Railways Co.'s notes-----	\$3, 710, 290
Notes settled by payment of verdicts secured by holders as result of court proceedings-----	320, 250
Notes extended to July 17, 1916-----	13, 233, 510
Notes on which no action was taken-----	72, 550
Total-----	17, 336, 600

Some of the short-term notes of Boston & Maine have been renewed 11 times. President Hustis concluded that the extraordinary earnings during 1916 were not sufficiently large to justify the holders of these notes to grant further extension in the time for payment. Moreover, he was of the opinion that the equity of the note holders could best be preserved by the appointment of a receiver. By this procedure the creditors would be prevented from attending the property and obtaining preferred claim judgments.

Following is a table which shows the assets and liabilities of Boston & Maine annually from June 30, 1906, to June 30, 1916; likewise the revenues and expenses, the amount of interest, rent, and dividends paid each year:





*Book cost of property, investments, revenues, expenses.*  
[Data from stock

Item.	1916	1915	1914	1913	1912
<b>Assets:</b>					
Road.....	\$60,571,229.58	\$60,225,684.96	\$59,927,508.51	\$58,086,919.54	\$55,326,452.03
Equipment <sup>1</sup> .....	30,108,570.57	30,490,463.45	30,726,331.82	30,040,032.60	28,660,650.89
Total.....	90,679,800.15	90,716,148.41	90,653,840.33	88,126,952.14	83,987,102.92
Accrued depreciation...	6,480,831.83	5,770,779.64	4,969,160.06	4,182,211.58	3,070,228.49
Net.....	83,188,968.32	84,945,368.77	85,684,680.27	83,944,740.56	80,916,874.43
<b>Investments, book value:</b>					
Stock.....	7,495,142.09	7,495,142.09	7,495,142.09	23,794,090.38	11,955,066.22
Bonds.....	671,156.05	545,618.50	545,618.50	545,618.50	545,618.50
Notes.....	2,464,953.45	5,915,312.38	9,522,000.00		
Advances to leased roads, etc.....	844,188.21	3,221,702.97	4,560,084.14	4,306,340.37	3,623,619.62
Sinking funds.....	1,446,205.96	1,321,512.53	1,243,706.97	1,169,808.37	1,098,280.96
Real estate.....	163,440.99	162,725.56	200,178.24	214,571.77	218,086.77
Total.....	13,085,086.75	18,662,014.03	23,567,329.94	30,030,489.39	17,440,672.07
<b>Liabilities:</b>					
Capital stock, par value.....	42,655,190.70	42,655,190.70	42,655,190.70	42,655,190.70	42,655,190.70
Premiums on capital stock.....	6,501,620.14	6,501,620.14	6,501,620.14	6,501,620.14	6,501,620.14
Funded debt held by public.....	42,589,000.00	43,338,000.00	43,338,000.00	43,338,000.00	43,849,000.00
Loans and bills payable.....	13,306,060.00	17,336,000.00	21,310,000.00	27,000,000.00	12,000,000.00
Corporate surplus.....	1,661,513.29	2,314,172.74	2,153,376.34	2,142,295.64	1,812,090.64
<b>Revenues and expenses:</b>					
Revenues.....	52,075,427.89	46,673,048.84	47,413,905.73	48,513,507.35	45,990,363.96
Expenses.....	36,197,958.47	35,909,771.58	38,296,678.73	38,101,424.62	35,087,295.34
Net operating revenues.....	15,877,469.42	10,763,277.26	9,117,227.00	10,412,082.73	10,903,068.62
Taxes, railway.....	1,986,267.31	1,978,223.09	2,059,016.83	2,025,628.78	2,086,863.88
Net operating income.....	13,891,202.11	8,785,054.17	7,058,210.17	8,386,453.95	8,816,204.74
<b>Other income:</b>					
Outside operations, net.....			186,239.64	187,913.41	143,422.84
Dividends received.....	175,266.80	174,766.80			
Interest received.....	229,643.39	363,296.90	1,164,414.92	1,023,764.30	562,632.71
Interest from sinking fund.....	53,219.13				
Rents and hire of equipment.....	677,542.95	626,982.39	309,809.22	321,591.93	273,997.00
Miscellaneous.....	35,043.12	39,427.64	39,785.68	10,877.26	19,236.34
Total.....	1,170,715.39	1,204,473.73	1,702,249.46	1,544,141.90	999,288.89
Gross income.....	15,061,917.50	9,989,527.90	8,760,459.63	9,930,595.85	9,815,493.63
<b>Deductions:</b>					
Interest on bonded debt.....	1,754,980.00	1,754,980.00	1,754,980.00	1,765,200.00	1,775,420.00
Other interest.....	970,497.25	1,271,581.00	1,562,964.79	782,111.04	308,282.88
Rent paid for leased roads.....	5,626,028.77	5,589,405.41	5,487,628.95	5,312,700.28	5,176,878.74
Rent paid for equipment.....	2,542,988.63	1,065,116.66	1,686,033.95	1,911,393.57	1,230,417.37
Other rents.....	17,103.40	8,177.70	10,700.62	5,959.14	5,461.94
Sinking funds.....	52,004.13	28,785.00	28,785.00	28,785.00	28,785.00
Miscellaneous.....	2,024.23	5,944.26	274,108.33	74,750.00	
Total deductions.....	10,996,226.41	10,323,990.03	10,805,201.64	9,880,899.03	8,525,245.93
Surplus for year from operations.....	4,065,691.09	334,462.13	2,014,742.01	49,696.82	1,290,247.70

<sup>1</sup> Does not include equipment belonging to leased roads inventoried at the inception of leases at \$3,194,707.96. Deficit.

*interest, and dividends received, interest, taxes, rent, etc., paid.*

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1911	1910	1909	1908	1907	1906
\$56,824,251.91 27,664,548.71	\$47,222,833.19 21,230,383.88	\$46,624,658.21 18,627,033.34	\$46,787,285.58 17,515,097.60	\$44,595,188.25 12,699,266.04	\$43,837,275.30 8,602,430.81
84,488,800.62 1,949,317.48	68,453,217.07 929,814.49	65,251,691.55	64,302,383.18	57,294,454.29	52,439,706.11
82,539,483.14	67,523,402.58	65,251,691.55	64,302,383.18	57,294,454.29	52,439,706.11
9,301,008.31 545,618.50	11,073,845.31 545,618.50	9,557,526.68 545,618.50	9,557,476.68 545,618.50	9,556,726.68 545,618.50	9,564,476.26 970,618.50
3,705,596.94 1,030,579.02 218,759.73	3,295,866.97 965,226.41 290,552.35	1,636,160.05 902,537.06 248,852.17	1,596,281.63 842,453.86 243,052.17	1,392,174.36 785,609.41 1,383,873.13	1,292,435.32 996,689.43 1,361,708.10
13,801,562.50	16,171,109.54	12,890,694.46	12,784,882.84	13,664,002.08	14,186,927.61
42,062,340.70	31,991,490.70	31,421,590.70	31,395,265.70	31,022,165.70	27,787,870.70
6,453,416.02	5,446,331.02	5,199,136.90	5,182,025.65	4,939,510.65	2,837,218.90
43,849,000.00 6,250,000.00 2,284,912.41	42,073,000.00 4,400,000.00 3,610,423.81	42,073,000.00 2,659,929.10	30,373,000.00 11,053,000.00 2,414,404.26	30,486,500.00 3,700,000.00 3,437,528.19	31,305,543.91 3,450,000.00 2,591,590.56
44,815,084.40 35,148,703.13	43,357,175.26 31,336,324.07	39,528,698.45 28,263,855.31	38,990,748.94 29,354,196.92	40,879,653.21 30,968,397.46	38,962,436.78 29,353,368.57
9,666,381.27 2,089,905.26	12,020,851.19 2,076,880.06	11,264,843.14 1,789,932.71	9,636,552.02 1,712,272.66	9,911,255.75 1,674,835.61	9,609,068.21 1,745,490.16
7,576,476.01	9,943,971.13	9,474,910.43	7,924,279.36	8,236,420.14	7,863,578.05
68,235.93 592,161.85	47,259.86 501,494.78	83,413.97 385,625.61	65,721.61 461,020.18	160,306.82 381,393.43	166,123.80 297,667.07
261,399.79 7,942.67	231,885.50 8,372.19	218,701.56 14,573.11	218,160.39 12,897.96	381,754.87 26,507.15	360,281.23 49,179.23
929,740.24	789,012.33	702,314.25	757,800.14	949,962.27	873,851.33
8,506,216.25	10,732,983.46	10,177,224.68	8,682,079.50	9,186,382.41	8,737,429.38
1,704,380.00 129,791.31	1,704,380.00 79,530.05	1,309,505.00 549,552.36	1,179,015.00 590,890.12	1,242,079.11 203,432.40	1,366,854.62 107,815.81
5,385,053.56	5,265,497.95	5,246,432.77	5,183,515.06	5,112,890.29	5,074,554.26
896,948.08 5,269.81 28,785.00	797,200.15 6,968.61 28,785.00	655,046.75 28,785.00	948,378.16 28,785.00	28,785.00	136,285.00
8,150,227.16	7,882,361.76	7,789,621.88	7,930,583.34	6,587,186.80	6,685,509.69
355,988.49	2,850,621.70	2,387,602.80	751,496.16	2,599,195.61	2,051,919.69



*Book cost of property, investments, revenues, expenses, interest.*

[Data from stock

Item.	1916	1915	1914	1913	1912
Profit and loss statement:					
Surplus beginning of year.....	<sup>1</sup> \$3,814,172.74	<sup>1</sup> \$3,153,376.34	<sup>1</sup> \$14,295.64	\$1,812,090.64	\$2,284,912.41
Operating surplus for year.....	4,065,691.09			49,696.82	1,290,247.70
Miscellaneous additions.....	67,523.13	32,243.12	460,600.00	3,013.36	346,377.39
Total.....	319,041.48	<sup>1</sup> 3,121,133.22	446,304.36	1,864,800.82	3,921,537.50
Deductions:					
Invested in additions and betterments.....					
Loss from operations.....		334,462.13	2,044,742.01		
Dividends paid.....				1,374,138.00	1,767,951.00
Retired and depreciated property.....	225,397.26	329,487.39	70,058.50	220,433.46	325,001.15
Loss on investments.....	68,002.45	29,090.00	1,136,898.54	284,525.00	
Miscellaneous.....	1,675.65		347,981.65		16,494.71
Total deductions.....	295,075.36	693,039.52	3,599,680.70	1,879,096.46	2,109,446.86
Surplus for year.....	23,966.12	<sup>1</sup> 3,814,172.74	3,153,376.34	14,295.64	1,812,090.64

<sup>1</sup> Deficit.

and dividends received, taxes, rent, etc., paid—Continued.

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1911	1910	1909	1908	1907	1906
\$3,610,423.81	\$2,659,929.10	\$2,414,404.26	\$3,437,528.19	\$2,591,590.56	\$2,494,140.56
355,988.49	2,850,621.70	2,387,602.80	751,496.16	2,599,195.61	2,051,919.69
474,510.00	343,644.13		543,206.11	845,937.63	97,450.00
4,440,922.30	5,854,194.93	4,802,007.06	4,732,230.46	6,030,723.80	4,643,580.25
	198,841.84	41,099.38	80,536.74	493,248.88	
1,958,971.45	1,868,520.00	1,817,360.63	2,080,621.10	1,973,332.16	1,834,646.00
190,735.10	176,409.28	90,408.07	155,299.51		
6,303.34		193,209.88	1,368.85	132,614.57	217,273.69
2,156,008.89	2,243,771.12	2,142,077.96	2,317,826.20	2,599,205.61	2,051,919.09
2,284,912.41	3,610,423.81	2,659,929.10	2,414,404.00	3,437,518.19	2,591,590.56

The foregoing table shows that the operation ratio of Boston & Maine from 1906 to 1916 varied as follows:

1906	75.34
1907	75.76
1908	75.29
1909	71.50
1910	72.27
1911	78.43
1912	76.29
1913	78.54
1914	80.77
1915	76.94
1916	69.51

The decrease in the operating ratio for 1916, as compared with 1915, is due to the large increase in earnings amounting to more than 11 per cent and the small increase of 0.8 in operating expenses. In 1915 the gross earnings amounted to \$46,673,048.84, in 1916 to \$52,075,427.89, while the operating expenses in 1915 were \$35,909,771.58, and in 1916 \$36,197,958.47.

The foregoing table shows that the rent paid for leased roads in 1906 amounted to \$5,074,554.26 and 1916 to \$5,626,028.77, representing an increase of \$551,474.51. In addition to this increase, there was an increase of \$2,543,988.63 of rent paid for equipment.

Boston & Maine reports operating revenues and expenses per mile of road operated as follows:

*Operating statistics per mile of road.*

[Data from Moody's Analyses of Investments.]

Year.	Miles operated.	Gross revenues.	Operating expenses.	Net operating revenues.	Net income.	Taxes accrued.	Fixed charges.	Surplus.
1907	2,288	\$17,974	\$13,535	\$4,439	\$4,854	\$792	\$2,877	\$1,245
1908	2,288	17,070	12,829	4,241	4,543	748	3,466	329
1909	2,289	17,306	12,348	4,958	5,228	782	3,403	1,043
1910	2,243	19,330	13,971	5,359	5,711	926	3,514	1,271
1911	2,243	19,980	15,640	4,340	4,692	932	3,637	123
1912	2,244	20,494	15,636	4,858	5,303	930	3,799	574
1913	2,252	21,542	16,919	4,623	5,309	899	4,388	22
1914	2,252	21,054	17,006	4,048	4,816	914	4,777	1,875
1915	2,302	20,372	15,599	4,673	5,208	859	4,460	1,111
1916	2,252	23,123	16,073	7,049	7,569	882	4,834	1,853
10-year average.	2,265	19,815	14,956	4,859	5,323	860	3,916	547

<sup>1</sup> Deficit.

NOTE.—Above table is based on the average mileage directly operated each year, whether owned, leased, or otherwise controlled.

No plan of reorganization has to date been approved by the stock and security holders of the Boston & Maine.

RECEIVERSHIP OF BOYNE CITY, GAYLORD & ALPENA RAILROAD.

Boyne City, Gaylord & Alpena Railroad was incorporated March 28, 1905, under the laws of Michigan and succeeded to the properties of the Boyne City & Southeastern Railroad. The road extends from Boyne City to Gaylord, Mich., and branches, 73.15 miles; sidings, 15.67 miles. The company is controlled through stock ownership by W. H. White Co.

In November, 1913, the Michigan Trust Co., of Grand Rapids, Mich., was appointed receiver for the railroad company, and also for W. H. White Co.



The information available at this time does not show the cause for the receivership of the railroad company. The financial statement of the railroad company, however, indicates that the receivership was precipitated by the financial difficulties of W. H. White Co.

The railroad company has an authorized capital stock of \$1,000,000, of which \$501,200 is outstanding.

The railroad company has an authorized bond issue of \$250,000. Bonds in the amount of \$100,000 were redeemed prior to June 30, 1915. Bonds in the amount of \$25,000 matured April 1, 1915, and \$125,000 on April 1, 1916.

The balance sheet of the company as of June 30, 1916, published in Moody's Analyses of Railroad Investments, shows that all of the company's bonds have been redeemed. The working liabilities are reported at \$502,580, whereas on June 30, 1915, they were reported at \$426,343, or \$76,237 less than on June 30, 1916. It is possible that the increase in working liabilities is due to the redemption of the bonds.

In his Analyses of Railroad Investments Moody shows the revenues and expenses of Boyne City, Gaylord & Alpena Railroad, as follows:

Item.	1916	1915	1914	1913	1912	1911
Gross revenue.....	\$263,753	\$243,472	\$242,453	\$263,302	\$253,325	\$248,773
Operating expenses.....	175,122	155,501	179,859	185,479	172,884	191,324
Net operating revenues.....	88,631	87,971	112,594	77,823	80,441	57,449
Other income.....	328			1,120	3,169	5,318
Total net income.....	88,959	87,971	112,594	78,943	83,610	62,767
Taxes.....	9,916	9,568	11,549	13,043	14,350	14,313
Fixed charges.....	15,404	26,638	36,945	39,042	32,561	32,026
Surplus.....	63,639	51,765	64,100	26,858	36,699	16,448

The foregoing income statement clearly indicates that the financial difficulties of the Boyne City, Gaylord & Alpena Railroad are attributable to causes other than its operating revenues and expenses, including fixed charges.

#### RECEIVERSHIP OF CHICAGO & EASTERN ILLINOIS RAILROAD CO.

The collapse of the St. Louis & San Francisco, hereinafter referred to as the Frisco, carried with it the Chicago & Eastern Illinois Railroad Co., hereinafter referred to as the Chicago Co.

On June 30, 1916, the Chicago Co. operated 1,136.46 miles of road, of which it owned 989.07 miles and operated under trackage rights 147.39 miles. The lines of the company extended from Chicago southwesterly to St. Louis and also south from Chicago to Evansville, Ind.

The desire of the Frisco for an entrance into the city of Chicago resulted in the purchase in 1902 of common and preferred stock of the Chicago Co. In exchange for preferred stock the Frisco agreed to deliver its 6 per cent preferred stock trust certificates, payable July 1, 1942, at the rate of \$150 for each share of Chicago Co's preferred stock. In exchange for the common stock of the Chicago Co. the Frisco agreed to deliver its 10 per cent common trust certificates, payable July 1, 1942, at the rate of \$250 for each share of common stock.

The Interstate Commerce Commission (vol. 29, p. 157) finds that on June 30, 1903, 70,642 out of a total of 72,178 shares of outstanding common stock were acquired by the Frisco in exchange for \$17,660,500 Frisco common stock trust certificates. The commission also finds that 41,717 shares out of a total of 68,307 of the preferred stock of the Chicago Co. were acquired by the Frisco in exchange for \$6,257,500 of Frisco preferred stock trust certificates.

On May 27, 1913, the Chicago Co. had \$13,626,100 of common and \$12,191,700 of preferred stock outstanding. At that time \$7,217,800 of common and \$8,402,500 of preferred stock of the Chicago Co. was exchanged for Frisco stock trust certificates. To acquire the common and preferred stock of the Chicago Co. the Frisco had issued up to May 27, 1913, \$18,044,500 of common stock trust certificates and \$12,603,750 of preferred stock trust certificates, making a total of \$30,648,250 issued in exchange for \$15,620,300 of Chicago Co. stock. Up to May 27, 1913, the Frisco Co. had acquired and placed in its treasury \$2,520,-

000 of common stock trust certificates, at a cost of \$1,884,320, leaving outstanding in the hands of the public \$15,524,500 of the common certificates and \$12,603,750 of the preferred certificates. By this exchange of Chicago Co. stock for Frisco trust certificates the Frisco burdened its system with a fixed obligation equivalent to 6 per cent on the preferred and 10 per cent on the common stock trust certificates.

The Frisco management has been severely criticized for this transaction. To pass upon the justice of such criticism it should be remembered that during 1899, 1900, and 1901 the Chicago Co. paid 6 per cent on its preferred stock and 3½, 4½, and 5½ per cent, respectively, on its common stock. The surplus carried to profit and loss after paying dividends during these years was \$100,598.69 in 1899, \$232,423.71 in 1900, \$317,245.45 in 1901, amounts entirely inadequate to warrant Frisco to agree to pay 10 per cent on the common stock trust certificates. The Interstate Commerce Commission finds that by virtue of this transaction the Frisco from 1903 to 1913, inclusive, lost \$2,057,073. At the time the Frisco acquired control of the Chicago Co. there was no physical connection between the two properties. To effect a connection it was necessary for the Chicago Co. to enter into a contract with the Cairo, Vincennes & Chicago Railway (Big Four) for trackage rights from Pana to East St. Louis, Ill., approximately 75 miles.

The capital stock and funded debt of the Chicago & Eastern Illinois Railroad on June 30, 1900, aggregated \$42,661,003.25, divided as follows:

Common stock .....	\$12,044,800.00	
Preferred stock .....	7,696,600.00	
Total capital stock .....		\$19,741,400.00
Bonds .....	22,682,900.00	
Equipment trust notes .....	236,703.25	
Total funded debt .....		22,919,603.25
Total capital liability .....		42,661,003.25

The capital liabilities, including short-term notes outstanding on May 27, 1913, aggregated \$101,009,731.25, an increase of \$58,348,728. The amount outstanding at the latter date was distributed as follows:

Common stock .....	\$13,626,100.00
Preferred stock .....	12,191,700.00
Bonds .....	63,155,200.00
Equipment trust notes .....	6,917,000.00
Notes payable .....	5,119,731.25
Total capital liability .....	101,009,731.25

The increases in the capital liability during this period consist of:

Common stock .....	\$1,581,300.00
Preferred stock .....	4,495,100.00
Bonds .....	40,472,300.00
Equipment trust notes .....	6,680,296.75
Notes payable .....	5,119,731.25
Increased capital liabilities .....	58,348,728.00

The increase in capital stock, bonds, and notes is accounted for by the following expenditures:

Additions and betterments .....	\$10,785,080.64
Acquisition of other railroads .....	9,100,914.48
Expenditures account of the Evansville & Indianapolis Railroad .....	2,302,860.46
Equipment .....	24,434,885.99
Coal properties purchased .....	4,418,632.11
Total expenditures .....	51,042,373.68
Net discount on bonds sold .....	2,151,951.17
Total accounted for .....	53,194,324.85

In several instances capital stock of the Chicago & Eastern Illinois Railroad was sold above par. On such sales premiums were realized to the extent of \$495,000. Adding this sum to the increase in the capital liabilities, the difference between that item and the amounts expended, including discount, aggregates \$5,649,403.15. This latter amount represents in part securities of various companies acquired by the Chicago & Eastern Illinois Railroad and securities of its own issue held in the treasury. Of the total net discount on sale of bonds, \$1,826,302.14 is still carried on the books as an asset.

On July 20, 1911, Chicago Co. acquired the properties of the Evansville-Terre Haute Railroad, controlled through stock ownership. Through the acquisition of these properties the Chicago Co. assumed a bonded indebtedness of the Evansville Co. in excess of \$8,000,000.

The Interstate Commerce Commission finds that the operating revenues of the Chicago Co. increased from \$6,000,000 in 1901 to \$15,000,000 in 1912, while the operating expenses increased from \$3,000,000 in 1901 to \$11,000,000 in 1912. The operating ratio increased from 54.75 per cent in 1901 to 80.19 per cent for 11 months in 1913. It is erroneous to conclude from this showing that the property was being well maintained, for the ratio of 71.58 per cent applied to maintenance of way in 1901 decreased to 16.33 per cent in 1913. While equipment maintenance increased proportionately, no proper provision was made for equipment depreciation, as the rate used was one-fourth of 1 per cent, which assumes that the equipment has a life of 400 years.

The ratio of interest on funded debt to net earnings increased from 48.42 per cent to 101.4 per cent in the same period.

The Interstate Commerce Commission (vol. 29, p. 159) finds the surplus of the Chicago Co., after payment of dividends, to have been as follows:

Year.	Surplus.	Deficit.
1902.....	\$607,171.77	
1903.....	1,261,800.73	
1904.....	757,952.23	
1905.....		\$80,265.67
1906.....	37,692.27	
1907.....	418,545.77	
1908.....		115,394.24
1909.....	20,972.94	
1910.....	68,524.16	
1911.....	28,807.12	
1912.....	104,946.42	
1913 to May 27.....		976,582.68

The funded debt, revenues, and expenses of Chicago & Eastern Illinois Railroad Co. are reported by the Interstate Commerce Commission (vol. 29, p. 162), as follows:

*Funded debt, revenues, and expenses of Chicago & Eastern Illinois R. R. Co.*

Fiscal years ended June 30	Gross operating revenue.	Operating expenses.	Operating ratio.	Net revenue rail operations.	Total mileage operated on June 30.	Revenue per mile of line operated.	
						Gross.	Net.
			<i>Per ct.</i>				
1901.....	\$5,587,541.93	\$3,058,970.52	54.75	\$2,528,571.41	727	\$7,685.75	\$3,478.09
1902.....	6,102,527.44	3,300,820.29	53.30	2,891,707.15	738	8,390.96	3,918.36
1903.....	7,586,329.92	4,045,050.37	53.32	3,541,279.55	751	10,101.64	4,715.42
1904.....	8,489,359.01	5,030,021.28	59.25	3,459,337.73	758	11,199.68	4,563.77
1905.....	8,422,485.75	5,573,150.09	66.19	2,847,335.66	948	8,884.48	3,003.51
1906.....	9,928,473.66	6,404,936.41	64.51	3,523,537.25	948	10,473.67	3,716.81
1907.....	11,393,397.05	7,637,731.00	67.04	3,755,666.05	957	11,905.33	3,924.41
1908.....	10,742,731.40	7,354,792.43	68.46	3,387,938.97	957	11,225.42	3,540.17
1909.....	10,269,618.99	6,934,533.51	67.52	3,335,085.48	966	10,631.07	3,452.47
1910.....	11,750,355.59	7,953,983.84	67.69	3,796,371.75	966	12,163.93	3,929.98
1911.....	12,281,344.27	8,344,463.43	67.94	3,936,880.84	966	12,713.61	4,375.45
1912.....	15,215,513.04	10,899,751.70	71.64	4,315,761.34	1,275	11,933.74	3,384.91
1913 to May 27.....	14,708,967.41	11,795,025.81	80.19	2,913,941.60	1,275	11,536.45	2,285.44



*Funded debt, revenues, and expenses of Chicago & Eastern Illinois R. R. Co.—*  
Continued.

Fiscal years ended June 30—	Total funded debt (including equipment trust) out- standing on June 30.	Net interest deductions on funded debt.	Total mileage owned on June 30.	Average amount of funded debt per mile of line owned.	Average annual interest on funded debt per mile of line owned.	Ratio of net earn- ings to total funded debt.	Ratio of interest on funded debt to net earn- ings.
						<i>Per cent.</i>	<i>Per cent.</i>
1901.....	\$23,975,447.85	\$1,224,285.43	704	\$33,800.35	\$1,739.04	10.63	48.42
1902.....	23,909,292.45	1,245,888.68	715	33,439.57	1,742.50	12.09	43.08
1903.....	25,940,594.24	1,612,999.47	728	35,632.68	2,215.66	13.65	45.55
1904.....	29,593,536.48	1,356,778.10	735	40,263.31	1,845.96	11.69	39.22
1905.....	35,733,478.72	1,506,467.57	817	43,737.42	1,843.90	7.97	52.91
1906.....	43,015,420.96	1,829,461.71	817	52,650.45	2,239.24	8.19	51.92
1907.....	45,954,363.20	2,043,685.15	817	56,247.69	2,501.45	8.17	54.42
1908.....	47,409,005.44	2,087,471.00	817	58,028.16	2,555.04	7.15	61.61
1909.....	48,830,547.68	2,136,177.26	819	59,622.16	2,608.28	6.83	64.05
1910.....	48,549,489.92	2,197,958.36	819	59,278.99	2,683.71	7.82	57.90
1911.....	49,277,432.16	2,231,402.65	819	60,167.80	2,724.55	7.99	56.68
1912.....	66,739,374.40	2,956,983.74	1,123	59,429.53	2,433.11	6.47	68.52
1913 to May 27.....	70,072,200.00	2,954,857.68	1,123	62,497.33	2,431.22	4.16	101.40

<sup>1</sup> Included interest to maturity on car trust notes for deferred payments on 1,000 box and 750 coal cars purchased from the American Car & Foundry Co. during the year.

The increase in funded debt in 1912 as compared with 1911 and the increase in mileage owned is primarily due to the acquisition of the properties of the Evansville, Terre Haute Railroad.

On May 27, 1913, Edwin W. Winter, of New York, and William J. Jackson, of Chicago, were appointed receivers for the Chicago & Eastern Illinois Railroad Co. The Frisco reorganization plan does not cover the Chicago company. The plan contemplates a separate reorganization for the Chicago & Eastern Illinois Railroad Co. To date no plan for the reorganization of this property has been announced. The Frisco reorganization plan adopted in April, 1916, provided that \$12,153,750 preferred and \$16,944,500 common stock trust certificates issued for preferred and common stock of the Chicago & Eastern Railroad should be exchanged for stock of the Chicago & Eastern Illinois Railroad, represented by the same. The reorganization managers delivered in respect to the preferred-stock certificates so surrendered, \$18 in 6 per cent preferred stock and \$2.50 in common stock of the new St. Louis & San Francisco; and also delivered in respect to common-stock certificates so surrendered, \$30 in 6 per cent preferred stock and \$1.25 in common stock of the St. Louis & San Francisco Railroad. (Moody's 1917 Analysis of Investments, p. 236.)

The Railway Age Gazette, in its issue of October 27, 1916, says:

"It seems hard to believe that the St. Louis & San Francisco was ever willing to guarantee 10 per cent on the \$7,218,000 common stock of the Chicago & Eastern Illinois and 6 per cent on its \$11,070,000 preferred to get and to retain control of that company. As an investment the venture was a failure. In only two years in its history did the Chicago & Eastern Illinois pay 10 per cent on its stock, and in the fiscal year ended June 30, 1916, a year of exceptional prosperity and industrial activity, the Chicago & Eastern Illinois earned only a few thousand dollars over and above interest charges. The St. Louis & San Francisco ceased to carry out the provisions of its guarantee, of course, when it went into the hands of receivers, and at the same time a receiver was appointed for the Chicago & Eastern Illinois. It was not until after the line had been operated for more than a year that many people realized that the Chicago & Eastern Illinois was not the prosperous railroad which it had generally been considered.

"With its present rates and funded indebtedness there is little prospect of the Chicago & Eastern Illinois earning much profit for its stockholders. The road is not heavily capitalized. Its outstanding funded indebtedness is at the rate of \$59,136 per mile, and its stock at the rate of \$18,180 per mile. What the company needs and needs badly is higher passenger rates and higher rates on manufactures and other competitive business."

## RECEIVERSHIP OF THE CHICAGO, ROCK ISLAND &amp; PACIFIC RAILWAY CO.

"Alton, New Haven—Frisco—and now Rock Island": such is the subject of an editorial in the *Railway Age Gazette* of August 27, 1915 (vol. 59, p. 374). The cause of this editorial was the report of the Interstate Commerce Commission dated July 31, 1915, in re "Financial transactions, history, and operation of the Chicago, Rock Island & Pacific Railway Co." (36 I. C. C., p. 43.)

"Regarding the important and essential points covered by the commission's report," says the editorial, "there is room for difference of opinion. Taken together they make up a record which for sordidness and dishonorableness in corporate management has hardly been surpassed."

In discussing the Rock Island affairs we will refer to the following:

1. Development of Rock Island system.
2. Mileage.
3. Receivership and causes thereof.
4. Findings of the Interstate Commerce Commission.
5. Operating results and capitalization.
6. Rehabilitation program.
7. Reorganization plan.
8. Discharge of receiver.

## 1. DEVELOPMENT OF ROCK ISLAND SYSTEM.

While this report is primarily concerned with the Chicago, Rock Island & Pacific Railway Co., hereafter referred to as the railway company, yet at times it becomes necessary to refer to the Chicago, Rock Island & Pacific Railroad Co. of Iowa, hereafter referred to as the Iowa company, and Rock Island Co. of New Jersey, hereafter referred to as the New Jersey company. The railway system commonly known as the Rock Island has had a varied career dating back to 1847. By 1880 it had become so prosperous that the stockholders to conceal the profits doubled the stock of the road and by a consolidation of affiliated companies assumed a bonded debt of \$5,000,000. From 1880 to 1902 the road extended its lines into the more sparsely settled regions of Colorado, Nebraska, and Kansas. As a result mileage was increased from 1,384 miles in 1887 to 3,257 in 1889 and to 3,408 in 1891. The gross earnings decreased from \$8,899 per mile in 1887 to \$5,126 in 1891, while the net earnings decreased from \$3,478 in 1887 to \$1,484 in 1894. The financing of new construction increased the annual charges from \$1,795,351 to \$4,775,601, or from \$1,295 per mile in 1887 to \$1,400 in 1891. The rate of dividends dropped from 7 to 4 per cent and the market price of the common stock from 140½ in 1887 to 63½ in March, 1891. (See *Railroad reorganization*, by Prof. Stuart Daggett, p. 316.)

The railway company passed through the panic of 1893 without cessation of dividends, though they were reduced to 2 per cent. From 1890 to 1900 but 360 miles were added to the system. In 1901, Daniel G. Reid, W. H. Moore, J. H. Moore, and W. B. Leeds purchased about \$20,000,000 of the stock of the railway company and by the use of proxies they soon became members of the board of directors. W. B. Leeds was elected president and D. G. Reid chairman of the executive committee. William H. Moore had made large profits out of the promotion of the National Biscuit and Diamond Match Cos. and was also interested in the promotion of various companies which were later absorbed by the United States Steel Corporation. W. B. Leeds was also interested in the promotion of companies which were acquired by the steel corporation. The Moores and their associates, as later developments seem to show, purchased the controlling stock interest in the Rock Island not with the intention of developing it as a railway property but rather with the intention of making large profits through stock transactions and manipulations. At the stockholders' meeting held June 5, 1901, the capital stock of the railway company was increased from \$50,000,000 to \$60,000,000. On June 4, 1902, stock was further increased to \$75,000,000. The board of directors further authorized President Leeds to sell certain individuals portions of the increased stock at par, although at the time the stock was quoted on the market above \$175. (Vol. 27, *Interstate Commerce Commission*, p. 45.)

In 1902 there was a general reorganization, but, unlike that of 1887, it was apparently not to conceal profits but rather to satisfy the financial ambitions of the Moore group and the chances which its members saw of making larger

profits through stock manipulations than the earnings of the property would ever bring. The 1902 reorganization called for the incorporation of the two holding companies, the Chicago, Rock Island & Pacific Railroad Co. of Iowa and the Rock Island Co. of New Jersey. The authorized capitalization of the Iowa company was \$125,000,000 in stock and \$75,000,000 in 4 per cent collateral bonds. That of the New Jersey company was \$150,000,000 in stock, of which \$54,000,000 was preferred and \$96,000,000 common. The capitalization of the railway company—that is, the operating company—remained undisturbed. The financial transactions of the Moore group is summarized by Prof. Daggett as follows:

\* \* \* \* Instead of one Chicago, Rock Island & Pacific Co. the Moores now proposed to have three companies, of which one was to operate the railroad, one was to hold the stock of the operating company, and one was to hold the stock of the company which held the stock of the operating company. That is to say, the Chicago, Rock Island & Pacific Railway Co. was left undisturbed, while in Iowa a Chicago, Rock Island & Pacific Railroad Co. was formed to hold the stock of the railway company and in New Jersey a Rock Island Co. was organized to hold the stock of the railroad company and of such acquisitions as might afterwards be made. The retention of the railway company made unnecessary the consent of creditors, for the lien and interest rate of outstanding bonds remained the same as before, the formation of the railroad company served apparently to meet legal requirements, and the organization of the Rock Island Co. seemed likely to make more easy the purchase of parallel and competing lines. But the great advantage of the new companies lay in the opportunities for stock inflation which they presented, together with the lessening of the amount of capital required for control. This appears plainly in the following: The old railway company had a capital stock of \$75,000,000; the new railroad company issued stock to the amount of \$125,000,000 and 4 per cent bonds to the amount of \$75,000,000. The Rock Island Co. issued common stock to a total of \$96,000,000 and preferred stock to a total of \$54,000,000; and the aggregate, excluding the undisturbed bonds of the railway company, footed up to \$425,000,000, instead of \$75,000,000 as before. From this total must be deducted \$200,000,000, which represented issues of stock by one company to another, and \$21,000,000 Rock Island Co. stock and \$1,500,000 railroad company bonds reserved for future extension, leaving a net increase from \$75,000,000 to \$202,500,000. This involved some increase in fixed charges, since 4 per cent on \$75,000,000 became obligatory, but the true significance lay in the inflation of principal rather than in the increase of interest charges, opening as it did an opportunity for great profit to the managers in the sale of the new securities. An incidental result was the transformation of the Rock Island from investment securities to media for speculation. At the same time the investment required for control was diminished. Seventy-five million dollars of railroad stock was exchanged for \$75,000,000 railroad bonds, \$96,000,000 Rock Island Co. common stock, and \$54,000,000 Rock Island preferred stock. Of these the bonds obviously had no voting rights. To both the common and preferred stock the right to vote was given but in unequal degrees. 'Until the number thereof shall be increased,' read the certificate of incorporation of the Rock Island Co., 'the number of directors shall be nine. There shall be five classes of directors. The first class shall contain a majority of the whole number of directors as fixed at any time by the by-laws \* \* \*. The holders of the preferred stock shall have the right, to the exclusion of the holders of the common stock, to choose directors of the first class \* \* \*.' In other words, to the preferred stock, which constituted a minority of the whole, was given the right to elect a majority of the board of directors; so that whereas in the old railroad company 51 per cent of \$75,000,000 common stock, selling at from 120 to 179, had been required for control, in the new combination of companies 51 per cent of \$54,000,000 Rock Island Co. preferred stock, selling at \$83½, was sufficient to the same end, in spite of a doubling of the stock outstanding.

\* To repeat: Two new corporations were formed, of which the Chicago, Rock Island & Pacific Railroad Co. of Iowa issued \$125,000,000 stock to the Rock Island Co. of New Jersey and in return received \$127,500,000 Rock Island preferred and common stock. With this stock and with \$75,000,000 of its own bonds the railroad company purchased the \$75,000,000 stock of the Chicago, Rock Island & Pacific Railway Co., paying for each \$100 in shares \$100 in Rock Island Co. common stock, \$70 in Rock Island Co. preferred stock, and \$100 in its own 4 per cent bonds.



"The railway shares acquired were pledged for the railroad bonds, and from them came the total income of the railroad company, and dividends upon the railroad shares, together with dividends upon shares of other companies which it might chance to own, constituted the total income of the Rock Island Co. After thus receiving indirectly the earnings of the railway company through two sets of dividends the Rock Island Co. paid dividends on its own shares, which were held by the public, the preferred stock being entitled to 4 per cent from 1903 to 1909, inclusive, to 5 per cent from 1910 to 1916, inclusive, and to 6 per cent thereafter.

"Other provisions were as follows: The Rock Island common stock might be increased from time to time according to law, but the amount of the preferred stock could not be increased, except with the consent of the holders of two-thirds of the entire preferred stock and two-thirds of the entire common stock at the time outstanding, given at a meeting called for that purpose. Preferred stock was to be preferred as to principal as well as to interest; it had the right, as has been said, to elect a majority of the board of directors, but this right could be surrendered by the affirmative vote of the holders of two-thirds in amount of the preferred stock at the time outstanding at a special meeting of the holders of the preferred stock called for that purpose."

Prof. Daggett further finds that in view of the fact that the preferred stock elected the majority of the board of directors, it was possible that the Moore group would not have to expand more than \$1,359,379 to control the Rock Island property, consisting of 7,718 miles of railway represented by \$319,909,482 of capitalization. He arrives at this conclusion by assuming that they paid \$140 per share for the railway company's stock in order to secure a majority control in the old company. A majority of the \$75,000,000 would have cost \$52,500,140. In return for this stock at the price as of January 2, 1903, the Moore group obtained:

1. \$18,375,049 in Rock Island Co. common stock.
2. \$21,918,808 in Rock Island Co. preferred stock.
3. \$32,765,712 in Chicago, Rock Island & Pacific Railroad Co. 4 per cent bonds.

Inasmuch as the preferred stock was sufficient to control the affairs of this railway system, there was left \$18,375,049 of Rock Island Co. common and \$32,764,712 of railroad company bonds, or a total of securities at a nominal value of \$51,140,761. Deducting this from the original investment, which he estimated at \$52,500,140, leaves a balance of \$1,359,379, representing the actual cost of control of the Rock Island property. It is obvious, of course, that the foregoing calculations are based on various assumptions. First, the assumption that the cost of the stock necessary to control the property was \$140 per share, whereas during 1901 and 1902 the stock was selling at 116½ to 172½; and, second, the assumption that it would have been possible to dispose of large blocks of securities without causing a break in the market price.

The acquisition by those in control of the Rock Island properties of the St. Louis & San Francisco Railroad Co., the Chicago & Alton, the Trinity & Brazos Valley, and various other properties will be covered in the review of the findings by the Interstate Commerce Commission.

## 2. MILEAGE.

On June 30, 1916, Chicago, Rock Island & Pacific Railroad Co. operated 8,024.13 miles of line consisting of:

Owned-----	6,810.24
Controlled through stock ownership-----	490.65
Leased-----	109.29
Trackage rights-----	613.95
Total-----	8,024.13

The foregoing figures are taken from Moody's Manual of Railroads and Corporation Securities, 1917 edition. The Interstate Commerce Commission reported that on June 30, 1915, the railway company owned 5,366.89 and operated 7,854.54 miles.

The lines of the railway company connect Chicago, Ill.; St. Louis, Mo.; St. Paul, Minn.; Watertown, S. Dak.; Denver, Colo.; Colorado Springs, Colo.; Santa Rosa, N. Mex.; Dallas, Tex.; Memphis, Tenn.; Eunice, La. There is no direct connection between Chicago and St. Louis or between St. Louis and

Memphis. The mileage operated by the railway company is located in the following States:

Illinois-----	364. 42	Oklahoma-----	1, 346. 29
Iowa-----	2, 027. 33	Tennessee-----	2. 63
Missouri-----	604. 66	Arkansas-----	707. 42
South Dakota-----	82. 72	Louisiana-----	185. 72
Minnesota-----	281. 68	Texas-----	475. 69
Kansas-----	1, 167. 29	New Mexico-----	152. 96
Nebraska-----	250. 42		
Colorado-----	374. 90	Total-----	8, 024. 13

The location of the railway company's lines are shown on the map attached to the following page.

### 3. RECEIVERSHIP.

On July 29, 1915, Chauncey G. Parker was appointed receiver for the Rock Island Co. (New Jersey holding company).

On January 19, 1915, Walter Noyes was appointed receiver for the Chicago, Rock Island & Pacific Railroad Co. (Iowa holding company).

On April 20, 1915, Jacob M. Dickinson and Henry U. Mudge were appointed receivers for the Chicago, Rock Island & Pacific Railway Co., the operating company. Mr. Mudge resigned as receiver December 30, 1915. Mr. Dickinson continued as sole receiver until June, 1917, when the properties were restored to the stockholders.

The history of the railway system outlined above shows that the ability of both the New Jersey and Iowa holding companies to meet their obligations was entirely dependent upon the dividends paid by the operating company. When that company suspended dividends in 1914 (none paid after 1913) receivership for the Iowa holding company was inevitable. In May, 1914, the Iowa holding company defaulted in the payment of interest on its \$71,353,500 of 4 per cent collateral trust bonds.

On September 3, 1914, the Central Trust Co. of New York, trustee under the mortgage securing the payment of bonds, initiated proceedings to foreclose the mortgage, thereby causing the sale of the stock of the operating company pledged as security for the payment of the collateral trust bonds. The stock of the operating company so pledged was sold on December 22, 1914, to the Wallace committee for \$7,135,350, or an amount equivalent to \$10 per share. The transfer of the stock was completed January 6, 1915. Those who deposited their bonds with the Wallace committee received 10 shares of stock of the operating company for each \$1,000 of collateral trust bond deposited. Bonds in the amount of \$70,171,000 were exchanged for stock. The nondepositing bondholders received \$85 for each \$1,000 bond, including the May 1, 1914, interest coupon. Excluding the coupon, they received \$83.33.

The receivership of the operating company has been attributed to a variety of causes. In the annual report for the year ending June 30, 1914, President H. U. Mudge alleged that the primary and fundamental causes for the failure of the company to earn its dividends were:

1. Reduction of passenger, freight, and express rates and inadequate mail pay for added service.
2. Increased rate of wages.
3. Increased expenses due to legislative enactments such as—
  - (a) Sixteen-hour law for train, engine, and yard men.
  - (b) Nine-hour law for telegraphers.
  - (c) Full-crew bills.
  - (d) Safety-appliance acts.
  - (e) Electric headlight bills.
  - (f) Laws for requiring extra trains runs in case of 30-minute delay to regular trains.
  - (g) Boiler-inspection law.
  - (h) Steel postal-car requirements.
  - (i) Semimonthly pay-roll acts.
  - (j) Employees' compensation acts.
  - (k) Orders requiring absolutely unremunerative daily train service.
  - (l) More than 300 other laws passed in the last five years in 14 States increasing expenditures with no offsetting earnings.
4. Increased taxes per unit of value.
5. Increased cost of capital funds.

In his report President Mudge calls attention to the fact that the operating revenues for the year ending June 30, 1914, as compared with the year ending June 30, 1913, decreased \$3,156,822, or 4½ per cent; that operating expenses decreased \$1,504,156, or 2.9 per cent, while the net operating revenue decreased \$1,652,666, or 8.8 per cent.

He draws a comparison of the traffic and operating results for 1914 as compared with 1902. He alleges that since 1902 local passenger rates were reduced from 3 to 2 cents per mile in eight States, in which 84.71 per cent of the mileage of the road is located. He also alleges that drastic reductions were made in freight rates by these States and other States and by various decisions of the Interstate Commerce Commission. During the same period that the passenger and freight rates were decreased wages were increased to comply with the demand of organized labor or with the decisions of arbitration boards. He concludes that the reduction in revenues and the increase in expenses on the three accounts—rates, wages, and taxes—alone amounts to \$16,750,843 for the year ended June 30, 1914, to wit:

A. The average freight rates received in 1902 applied to the tonnage of 1914 would have increased the earnings-----	\$8, 975, 586
B. Rates per mile received for passengers in 1902 applied to traffic in 1914 would have given an increase of-----	2, 246, 449
C. The rates of wages paid in 1902 if applied to traffic in 1914 would have reduced operating expenses-----	4, 273, 222
D. The taxes per mile of road in 1902 if applied to the mileage of 1914, also allowing for the increased cost per mile, would have shown a reduction of-----	1, 255, 585

Following the appointment of receivers for the operating company on April 20, 1915, President Mudge issued a statement which reads in part as follows:

"The real underlying trouble with our road is the same as with the other roads and they will all in time find themselves in our fix if this fundamental trouble is not eliminated. That trouble is the Government's attitude toward railroads. We must have higher rates and lower costs.

"I do not mean that the Atchison, Topeka & Santa Fe, the Chicago, Burlington & Quincy and such systems will reach the receivership stage in the immediate future, but under conditions which have obtained for many years they could not survive. They must in time, under those conditions, become insolvent. Happily, however, there are signs that the public attitude is changing and the railroads may have fewer handicaps.

"Despite the repressive governmental measures of the last 10 years the Rock Island has done a little better than held its own in gross earnings in comparison with other railroads; but its ratio of net to gross earnings shrank more than others because in its early days it did not spend enough money upon itself, and since I have been president money for that purpose has not been available because the financial organization of the company prevented the selling of our securities. Our bonded debt might have been greater with benefit to the road if the money had been put into the property. In that case, we would not be in receivership to-day. We are overcapitalized rather than undercapitalized."

Mr. T. M. Schumaker, chairman of the Rock Island executive committee, is reported as saying:

"The appointment of receivers upon the application of the creditors was assented to by the president of the railroad because of the absolute inability to give assurances to creditors that their obligations would be met when due.

"Previous to April 1, in order to meet requirements of \$1,600,000 on that date, the company was able to obtain a temporary loan for this purpose only by the personal indorsement of five of the directors. Obviously the company could not be expected to continue raising funds by such a method.

"It is necessary to obtain approximately \$2,000,000 on May 1, and with a much less active and attractive collateral, from a banker's standpoint, upon which to borrow. Furthermore, on July 1 an additional \$2,000,000 will be necessary. The short-term loan of \$2,500,000 due April 30 would only be renewed by the present owners upon absolute assurance from the board that its finances for the balance of the calendar year of 1915 had been arranged. As such assurance could not be given, it would have been necessary also to meet this \$2,500,000 on April 30, making a total of \$4,500,000.

"It is very essential for the proper development and economical operation of this property that many grades should be reduced, that a large amount of



steel rails should be immediately laid for the safety of both passenger and freight traffic, and that 5,000 freight cars should be ordered. While car equipment notes could be issued for 80 per cent of the cost of the freight cars, it would require \$1,000,000 to supply the other 20 per cent."

Mr. N. L. Amster, a director of the Rock Island, takes issue with both Chairman Schumaker and President Mudge as to the necessity for the appointment of receivers. He is quoted as saying in part:

"The extraordinary and unexpected action in procuring the appointment of receivers was taken without consulting the board. The plunging of your great and solvent property into receivership is a wanton betrayal of your interests. Within the past 30 days 25 per cent in excess of the entire capital stock has been bought and sold on the New York Stock Exchange. The transactions have all the earmarks of a gigantic manipulated stock scheme."

Mr. N. L. Amster is also quoted as saying that he had made arrangements to secure the necessary \$6,000,000 to meet the immediate needs of the company. The findings of the Interstate Commerce Commission, as shown below, indicate that the causes of the receivership of the operating company were not so much the increase in wages and taxes, but rather the tremendous losses suffered by the company through its purchase of the St. Louis & San Francisco, the Chicago & Alton, the unprofitable investment in the Trinity & Brazos Valley, the payment of exorbitant salaries to executive officers, and the diversion of the company's funds to purposes foreign to the successful operation of the property as a railway enterprise.

Theodore Prince, of the bond firm of L. M. Prince & Co., in an article on the Rock Island situation published in Moody's Magazine for August, 1916, attributes the difficulties of the property to the following causes:

1. Injudicious acquisitions and investments involving a loss of about \$50,000,000.
2. Wholly inadequate depreciation charges.
3. Excessive financing of improvements, additions, etc., by means of bonds and other obligations, such expenditures aggregating \$180,000,000 from 1902 to 1914 against only \$26,683,690 for the same purposes derived from earnings and surplus.
4. The lack of strong alliances for Pacific coast and other through traffic.
5. Deficient terminal facilities.
6. Congestion of traffic due to great lack of second track and proper sidings.
7. Relative small freight density.
8. Small margin of profit over an excessive fixed charge.

The Railway Age Gazette, in its issue of April 23, 1915 (vol. 58, p. 875), speaking editorially on the difficulties of the Rock Island, says:

"The facts show that the Rock Island has been subjected to two sets of adverse influences. One of these has grown out of its peculiar financing. The other has grown out of the increase in its operating expenses and taxes, which have caused it to suffer more severely than any other properties, because it has been so situated that it has not enjoyed as large an increase as some of them in its gross earnings. Is it defending the financing of the property to call attention to the fact that the plight to which it has been brought is chiefly due, not to its unwholesome financing, but to increase in its operating expenses and taxes?

"The final bankruptcy of the property is a natural result of the operation of the two sets of influences that have been acting upon it. If the holding company superstructure had never been erected, it might have had to reduce or suspend its dividends, but it would probably be a solvent property to-day. If, on the other hand, there had not been such an enormous increase in wages, taxes, and other expenses, it would have been able to have earned and paid such dividends to support the holding superstructure. With the two sets of influences acting on it, it was unable to continue to stand up. The outcome may properly be described as the natural result of the sort of financing of which the Rock Island has been the victim, but it may also, with equal propriety and justice, be denounced as a natural outcome of the sort of regulation to which the Rock Island and other railways have been subjected."

That the affairs of the railway company have not been economically managed is evidenced by the report of Receiver Jacob M. Dickinson for the year ending June 30, 1916. In his report the receiver calls attention to the report of Mr. Kendrick, referred to below, in which he estimates that an annual saving of \$10,463,822 could be made by the expenditure of \$32,847,685 over a period of

three years. The receiver installed many of the improvements recommended by Mr. Kendrick. During 1916 the freight loss and damage claims amounted to \$882,076, as compared with \$1,285,100 in 1915, the decrease being \$403,024, or 31.3 per cent. The reduction was due primarily to better equipment, better tracks, better freight-house operation, better loading, better handling, and better organization. Not only have 4,000 new cars been added to the equipment, but other cars have been maintained in better repair. The passenger traffic expenses were decreased by the sum of \$105,596, or 11.4 per cent, while the passenger revenue increased 3.9 per cent. The freight traffic expenses were decreased by \$21,701, or 2.3 per cent, though the freight revenue increased 7.7 per cent.

#### 4. FINDINGS OF INTERSTATE COMMERCE COMMISSION.

It will be remembered that President Mudge, in his report for the year ending June 30, 1914, and in his statement following the appointment of receivers, attributed the Rock Island difficulties, for the most part, to increase in wages and taxes, and to burdensome legislation and regulation. In view of the findings of the Interstate Commerce Commission, decision dated July 31, 1915 (36 I. C. C., pp. 43-61), it is difficult to interpret President Mudge's statement as being frank, candid, and complete. It seems almost impossible that a railway executive of his ability should be ignorant of the \$20,249,523.45 dissipated and lost by his company in ill-advised projects.

In its report of July 31, 1915, the Interstate Commerce Commission refers to the syndicate which obtained control of the railway system commonly known as the Rock Island System; the organization and use of the holding companies; the salaries and contributions paid to officers and directors; the purchase of the common stock of the St. Louis & San Francisco Railroad Co.; the purchase of the stock of the Chicago & Alton Railroad Co.; the construction of the line of railway owned by Trinity & Brazos Valley Railway Co.; the organization of the Consolidated Indiana Coal Co. and the Dering Coal Co.; the purchase of the stock of the Choctaw, Oklahoma & Gulf Railway Co.; the organization of the Rock Island Improvement Co., reports to stockholders and the status of the receivership on July 31, 1915.

In 1902, says the Interstate Commerce Commission, the main line of the Chicago, Rock Island & Pacific Railway Co. extended from Chicago to Denver, with branch lines to St. Paul, Minneapolis, and Kansas City.

The territory served, the commission says, is one of the richest and most prosperous in the country, and the system's ramification of branch lines insures to it a large volume of tonnage. In 1902 the Rock Island Co. was in a prosperous and promising condition. Its stock was selling at more than \$200 a share, while in 1914 the price had fallen to \$20 a share and the road was in the hands of receivers—this in spite of the fact that the earnings of the road had steadily increased and that in 1914 they were the largest in the history of the company. The capitalization, indebtedness, and operating accounts for the years 1901 and 1914 are at once suggestive of the causes and difficulties that confront the railway system:

Item.	1901	1914
Capital stock.....	\$49,921,400.00	\$74,995,122.50
Funded debt.....	\$63,538,000.00	\$235,246,000.00
Loans payable.....	None.	\$3,500,000.00
Operating revenues.....	\$26,075,574.00	\$65,848,258.00
Operating expenses.....	\$17,096,066.00	\$49,517,948.00
Interest on funded debt.....	\$2,981,980.00	\$9,934,169.00
Rentals.....	\$473,962.00	\$1,881,651.00
Net income.....	\$5,306,519.00	\$395,915.00
Surplus.....	\$10,263,184.55	\$6,264,208.84
Mileage owned.....	3,128	5,367
Mileage operated.....	3,772	7,729

*Syndicate control.*—In 1901 Daniel G. Reid, W. H. Moore, J. H. Moore, and W. B. Leeds purchased about \$20,000,000 of stock of the Rock Island Co., and by the use of proxies they soon became members of the board of directors. W. B. Leeds was elected president of the board and D. G. Reid chairman of the executive committee. This syndicate procured the election of F. L. Hine, George McMurtry, and George T. Boggs as directors, all three being controlled by the syndicate.

On June 5, 1901, at a stockholders' meeting, the capital stock was increased from \$50,000,000 to \$60,000,000 and a 10 per cent stock dividend declared.

On June 4, 1902, the capital stock of the railway company was increased to \$75,000,000. The board of directors authorized President Leeds to sell to certain individuals portions of this increased stock at par, although at the time the stock was quoted on the market above 175.

*Organization and use of holding companies.*—In July, 1902, the syndicate organized two holding companies—the Chicago, Rock Island & Pacific Railroad Co., of Iowa, and the Rock Island Co. of New Jersey. Hereinafter the operating company will be referred to as the "railway company," the holding companies as the "Iowa company" and the "New Jersey company," respectively. The St. Louis & San Francisco Railroad Co. will be referred to as the "Frisco."

The authorized capitalization of the Iowa company was \$125,000,000 in stock and \$75,000,000 in 4 per cent collateral bonds. That of the New Jersey company was \$150,000,000 in stock, of which \$54,000,000 was preferred and \$96,000,000 common. Each of these companies issued its stock as fully paid, whereas no payment was made on either.

Under an agreement the entire bond issue of the Iowa company and the stock issue of the New Jersey company were to be exchanged for stock of the railway company in the proportion of \$100 in Iowa company bonds and \$70 in preferred and \$100 in common stock of the New Jersey company for each \$100 in stock of the railway company, or \$270 face value of the holding company's securities for each \$100 par value of the railway company's stock. Under this agreement the members of the syndicate deposited railway stock as follows:

D. G. Reid.....	\$5,915,437.50
W. H. Moore .....	6,118,975.00
J. H. Moore.....	3,059,262.50
W. B. Leeds.....	5,597,100.00

In exchange for this stock members of the syndicate received \$20,690,775 in Iowa company bonds, \$20,690,775 in common and \$14,483,542 in the preferred stock of the New Jersey company, making a total of \$55,865,092.

The 10 per cent stock dividend declared by the railway company on June 5, 1901, had the apparent intended effect of creating a demand for the stock of the holding companies. About \$71,000,000, or all except approximately \$4,000,000 of the railway stock, was exchanged for stock and bonds in the holding companies, which issued securities in the amount of \$191,000,000 in exchange for the \$71,000,000 of the railway company's stock.

In December, 1902, and in January, 1903, C. H. Venner, a stockholder of the railway company, made a demand for a list of its shareholders. The company refused to furnish the list and Venner instituted a proceeding to enjoin the organization of the holding companies and to prevent the exchange of the railway company's stock for securities in the holding companies. In February and March, 1904, the railway company paid Venner \$291,000 in exchange for stock in the railway company valued at \$91,000 and stock of the Nebraska Central Railway and of the Nebraska Construction Co., having a nominal value of \$200,000. Neither of the last two companies had any tangible assets. Immediately after these payments the Venner suit was dismissed. It is evident that the payments to Venner were in consideration of his refraining from further prosecuting in the courts his opposition to the syndicate plan. In addition to the \$291,000, the railway company paid \$17,000 litigation expenses.

The commission also finds that \$290,000 was improperly diverted from the treasury of the railway company for payment of office and other expenses of the holding companies.

*Salaries of and contributions to officers and directors.*—The salaries paid to some of the principal officers at various periods were reported as follows:

	Per annum.
H. U. Mudge, president.....	\$60,000
L. F. Loree, chairman executive committee (one-half to be paid by the Frisco) .....	75,000
R. A. Jackson, vice president and general solicitor.....	50,000
R. R. Cable, member of board of directors.....	32,000
W. B. Leeds, president.....	32,000
B. L. Winchell, president.....	40,000
B. F. Yoakum, chairman executive committee.....	30,000
Daniel G. Reid, chairman board of directors.....	32,000
C. H. Warren, first vice president.....	35,000



In addition to the foregoing salaries, the commission's findings show that contributions were paid to certain officers in the following amounts:

"J. E. Gorman, first vice president in charge of freight and passenger traffic, was secretly paid \$18,750 per annum, making his total compensation \$43,750, whereas the pay roll showed \$25,000.

"C. A. Morse, chief engineer, received a salary of \$15,000 per annum and a secret bonus of \$3,000 on the first of each year.

"Upon the retirement of R. A. Jackson as general solicitor, he was given \$100,000 in cash.

"As an inducement to L. F. Loree, chairman of the executive committee, to relinquish after 10 months' service, a joint contract with the railway company and the Frisco under which he was to receive a salary of \$75,000 per annum for a period of five years and in addition was to be paid a bonus of \$500,000 at the expiration of the contract, he was given bonds of the railway company of a par value of \$450,000. This was borne equally by the two companies, and the proportion of the railway company in this transaction exceeded \$250,000.

"C. H. Warren, vice president, was given by the railway company \$150,000 in par value of the common and \$150,000 in par value of the preferred stock of the New Jersey company and \$50,000 in cash. There was no board authorization for the latter expenditure, the item being represented in the records of the railway company merely by a voucher signed by D. G. Reid.

"R. R. Cable, a member of the executive committee, received from the railway company \$30,000 in bonds of the Iowa company, then worth \$24,500, for his services in the acquisition of the Burlington, Cedar Rapids & Northern Railway Co., and he was paid by the latter company \$85,000 in the same transaction. Mr. Cable also received another contribution, which will be referred to later.

"Robert Mather, vice president, was given \$25,000 in cash.

"George T. Boggs, director and secretary of the board of directors of the railway company, was given \$15,000 in cash when he retired from the secretaryship of the railway company.

"As hereinbefore indicated, when the capital stock of the railway company was increased to \$75,000,000 shares of the par value of \$880,500 were placed in the name of the president, to be thereafter distributed in accordance with the following resolution of the executive committee passed at a meeting held in New York July 1, 1902:

"*Resolved*, That such portion as the president may determine of the shares of the increased capital stock of the company not required for the purpose of the foregoing resolutions shall be disposed of at par by the president for the benefit of such officers of the company as the president shall elect and determine."

"This stock was later exchanged for securities of the Iowa and New Jersey companies in the same manner as was stock of the stockholders of the railway company.

"Following this exchange R. R. Cable received securities of a market value of \$368,300 for which he paid \$200,000.

"H. A. Parker, first vice president, received securities then worth \$27,900, for which he paid but \$15,000.

"Robert Mather received securities of a market value of \$145,912 above his payments therefor.

"The contributions to officials of the railway company in excess of their salaries aggregated about \$1,000,000."

*The St. Louis & San Francisco Railroad Co.*—On May 6, 1903, an agreement was executed between the Iowa company, the New Jersey company, and J. P. Morgan & Co., wherein it was agreed that the common stock of the Frisco would be exchanged for securities of the Iowa and New Jersey companies. For each share of the common stock of the Frisco there was to be delivered \$60 par value in 5 per cent bonds of the Iowa company and \$60 par value of common stock of the New Jersey company. Common stock of the Frisco in the amount of \$28,940,300 was exchanged for \$34,728,360 of stock and bonds of the Iowa and New Jersey company.

The Frisco stock was deposited as collateral for bonds of the Iowa company. In December, 1909, it was resold to B. F. Yoakum for \$37.50 a share, or \$10,852,000. This sum was inadequate to redeem the collateral bonds of the Iowa company. To obtain a release of the Frisco stock, the Iowa company issued to the railway company bonds in the amount of \$7,500,000, and received

in cash from the railway company \$7,300,000, this being the net proceeds from a \$7,500,000 loan to the railway company by the First National Bank of New York. Of these bonds \$1,388,000 were subsequently retired, leaving in the possession of the railway company \$6,112,000 of Iowa company bonds, with no real assets behind them.

The final result of the Frisco transaction has caused a loss to the railway company in the amount of about \$6,500,000.

*Chicago & Alton Railroad Co.*—From November, 1903, to October, 1907, the railway company acquired 48,800 shares of preferred and 144,200 shares of common stock of the Chicago & Alton at a cost of \$9,709,876.49.

In October, 1907, the railway company delivered to Toledo, St. Louis & Western Railroad Co. 41,100 shares of the preferred and 144,200 shares of the common stock of the Alton company, receiving in exchange 4,110 series A and 5,047 series B collateral trust bonds of the Toledo, St. Louis & Western Railroad Co.

In November, 1908, the remaining 3,200 shares of the preferred stock of the Alton company were sold at a loss of \$45,527.69. At the same time 3,710 of series A bonds of the Toledo, St. Louis & Western Railroad were sold at a loss of \$393,572.44.

On June 30, 1914, the railway company owned 400 series A and 5,047 series B bonds of Toledo, St. Louis & Western and 4,500 shares of Alton preferred, the aggregate cost being \$6,193,240.36, whereas the market value was \$1,582,400, a difference of \$4,610,840.36. In addition the interest paid amounted to \$1,320,644.76, making a total loss sustained by the railway company as a result of the Alton deal of about \$6,370,000.

*Trinity & Brazos Valley Railway Co.*—On March 31, 1906, a contract was entered into between the railway company, the New Jersey company, the Colorado & Southern Railway Co., and the Frisco for the construction and operation of the Trinity & Brazos line. To June 30, 1914, approximately \$11,000,000 was expended. Of this amount the railway company advanced \$3,729,863.87. Only \$35,500 was repaid. The balance is represented by certificates of indebtedness issued by the Trinity & Brazos. The unpaid interest on the certificates amounts to \$774,918.20, making the total investment in the Brazos \$4,504,782.07. In view of the fact that the Trinity & Brazos Valley is now in the hands of receivers and that the operation of the road has for some time resulted in a deficit, it appears that this investment is of very doubtful value.

*Consolidated Indiana Coal Co.*—On April 29, 1905, the Consolidated Indiana Coal Co. was incorporated under the laws of Maine by interests affiliated with the railway company. The coal company sold to New York bankers \$2,500,000 of bonds and \$1,000,000 of stock for a sum total of \$2,375,000. The remaining capital stock, \$2,400,000, was delivered to the railway company in consideration of its guaranty indorsed upon the coal company's bonds, the guaranty going toward the payment of the interest.

Prior to June 3, 1914, the railway company had advanced to the coal company \$2,354,453.19. Interest at the rate of 4 per cent was paid upon these advances to June 30, 1910.

The loss on the part of the railway company attributal to this venture can not be computed exactly, but the loss in interest charges alone since 1910 has amounted to more than \$400,000. Inasmuch as the coal company is operating its property at a loss, it is doubtful whether the railway company will ever be reimbursed for its advances.

*Dering Coal Co.*—Rock Island interest together with parties affiliated with the Chicago & Eastern Illinois Railway Co. and the United States Steel Corporation, organized the Dering Coal Co. for the purpose primarily of furnishing fuel to these companies and their associated interests. The coal company went into the hands of a receiver on March 1, 1909. The railway company through this transaction, including interest, lost \$906,420. This loss was the result of a purchase of \$450,000 of stock and \$1,700,000 of bonds of the coal company at a net cost of \$981,000. No interest was paid on bonds subsequent to September, 1908, and in 1912, both the stock and bonds were sold to J. K. Dering for \$225,000.

The loss sustained by the railway company in connection with the two coal companies is in excess of \$1,300,000. If the advances to the coal companies can not be collected, it will result in an additional loss of \$2,500,000.

*Choctaw, Oklahoma & Gulf Railroad Co.*—In 1902, under contract, Speyer & Co. purchased for the railway company 192,958 shares of common and 118,871 shares of preferred stock of the Choctaw, Oklahoma & Gulf Railroad Co. The



shares, both common and preferred, had a par value of \$50 each. Speyer & Co. received from the railway company \$80 per share for the common and \$65 per share for the preferred or \$22,568,900. Additional shares, 3,592 common and 1,129 preferred, were subsequently purchased by the railroad from various persons at a cost of \$430,415. To provide funds for this transaction the railway company authorized an issue of \$24,000,000 of 4 per cent bonds, secured by the stock of the Choctaw, Oklahoma & Gulf Railroad Co. Of this bond issue \$23,520,000 was sold to Speyer & Co. at 96½ and accrued interest. The railway company also paid in connection with this bond issue a commission in excess of \$113,000, a discount on bonds amounting to \$824,325, and incidental expenses of about \$27,000, making a total expenditure of more than \$24,000,000 for \$15,827,000 par value of stock of the Choctaw, Oklahoma & Gulf Railroad Co.

On March 24, 1904, the lines of the Choctaw, Oklahoma & Gulf Railroad Co. were leased to the railway company for a term of 999 years. Since then and up to June 30, 1914, the railway company had advanced to the Choctaw, Oklahoma & Gulf Railroad Co. \$1,293,229.58. No interest has been paid on these advances. The commission was furnished with no positive evidence that the Rock Island would realize in any material manner on its investment in the Choctaw, Oklahoma & Gulf Railroad Co.

*Rock Island Improvement Co.*—The Rock Island Improvement Co. was incorporated under the laws of New Jersey for the purpose of acquiring, on behalf of the railway company, transportation equipment and facilities. Prior to June 30, 1914, the railway company had invested in the improvement company nearly \$12,000,000. The equipment purchased by the improvement company is covered by equipment notes guaranteed both as to principal and interest by the railway company. In one instance, equipment notes were sold by the railway company at less than par, and within six months bought back by the railway company at more than par. The only apparent justification for the organization of the improvement company is that by means of its operations the equipment of the railway company is exempted from the lien of the 1898 bond issue. The commission was unable to determine the difference between the ultimate cost of equipment furnished the railway by the improvement company and what such cost would have been if the equipment had been purchased directly by the railway company.

*Aggregate of losses.*—The commission summarizes the aggregate loss of the Rock Island in connection with the foregoing transactions as follows:

Expenses of maintaining and housing holding companies, more than-----	\$290,000.00
Frisco deal, approximately-----	6,500,000.00
Alton deal, approximately-----	6,370,000.00
Trinity & Brazos Valley Railway deal, more than-----	4,500,000.00
Consolidated Indiana and Dering coal companies, at least-----	1,300,000.00
Contributions or gratuities to officers and directors, about-----	1,000,000.00
Venner transaction-----	217,000.00
Miscellaneous and unexplained expenditures-----	72,523.45
Total-----	20,249,523.45

In addition to the aggregate loss of more than \$20,000,000, it should be noted that the railway company prior to June 30, 1914, paid financial institutions in connection with bond issues more than \$1,600,000 and suffered discounts of more than \$17,700,000.

*Reports to stockholders.*—The commission finds that the railway company misrepresented its assets in reports to its stockholders. On June 30, 1904, the company claimed a surplus of \$22,343,955.26. By June 30, 1914, the company conceded a reduction of this surplus to \$6,199,841.08. Even this surplus, the commission holds, is fictitious.

The railway company included among its assets certificates of indebtedness of the Trinity & Brazos Valley Railway Co. carried at a book value of \$3,694,863.87, while at the same time this company was in the hands of a receiver and was facing a deficit of \$8,000,000. Again the company carried on its books as assets, bonds of the Toledo, St. Louis & Western Railroad Co. at a valuation of \$6,000,000 secured by stock of the Chicago & Alton Railroad Co. which, on June 30, 1915, had a market value not in excess of \$1,600,000. It also included in its assets \$370,000 par value of stock of the Nebraska Central Railway Co. and the Nebraska Central Construction Co., neither of which companies



had any tangible property. The 5 per cent debenture bonds of the Iowa company, found to be worthless, were reported at nearly \$6,000,000.

As a result of these misrepresentations, amounting to \$18,000,000, the company, instead of having a surplus on June 30, 1914, of \$6,000,000, in reality had a deficit of over \$11,600,000.

*Present status and receivership.*—The original articles of consolidation of the railway company provided that the maximum of indebtedness should not exceed two-thirds of its outstanding capital stock. This funded debt on June 30, 1914, was \$238,746,000, an increase of nearly \$175,208,000 over the amount outstanding on June 30, 1901. The total capitalization on June 30, 1914, was \$313,741,000, of which 28.73 per cent represented stock and 71.26 per cent funded indebtedness. The proportion of funded debt to stock represents a clear violation of the provisions of the original articles of consolidation.

The Iowa company, which had issued \$75,000,000 of bonds, was entirely dependent upon the dividends of the railway company for funds to pay the interest on the bonds. When in 1914 the railway company failed to pay dividends, the Iowa company defaulted in payment of interest. The Iowa company bondholders instituted foreclosure proceedings as a result of which on December 31, 1914, the stock deposited as security for the bonds was sold to J. N. Wallace, president of the Central Trust Co. of New York, for \$7,135,350.

The syndicate decided to put the railway into a receivership. The general counsel of the railway company, at the suggestion of W. H. Moore, a member of the syndicate, drew the bill asking for a receivership and engaged an attorney ostensibly to represent the other side. The bill was placed in the hands of this attorney with the name of the complainant omitted and he was instructed by the general counsel to locate some creditor of the railway company willing to act as complainant. There was an agreement between the general counsel and this attorney as to the parties the latter would recommend to the court as receivers, the general counsel agreeing to instruct the attorney appearing for the railway company to acquiesce in the recommendations so made.

The attorney was successful in persuading R. P. Lamont, the president of the American Steel Foundries, a creditor, to file the complaint and asking for the appointment of a receiver. Lamont testified that he brought the action merely as a friendly act to oblige the railway company. The suit, the commission finds, was not a bona fide proceeding to collect a debt, but was instituted to carry out the purposes and schemes of the syndicate controlling the railway. The bill was completed by the general attorney on March 29, 1915, a fact known to few. It was filed on April 20. Few shares of stock were sold upon the New York Stock Exchange prior to March 29. Subsequent to March 29 and prior to the filing of the bill on April 20 the price of the stock was increased from \$20 to \$39 a share. Upon the filing of the bill for a receiver the price dropped from \$39 to \$20 a share. Between March 22 and April 20, 1915, 1,019,584 shares were sold upon the New York Stock Exchange.

The commission comments upon this part of the transaction as follows:

"It is a forceful commentary on the methods by which a great railway may be manipulated into a receivership when it is noted that the general counsel, after drawing the bill for a receivership, sold his stock, and the local counsel, who represented the railway company in the receivership proceedings, owned no stock in the railway company, and that none of those directly participating in the receivership proceedings had any financial interest in the railway company. The real owners of the railway, the stockholders, the security holders, and the directors, except those composing the syndicate and in its confidence, were in ignorance of the receivership application. Mr. Mudge, former president of the railway company, is one of the receivers."

In conclusion, the commission says:

"By this case the need of some limitations on the issuance of stocks and bonds by common carriers, whether directly or through holding-company devices or otherwise, is again demonstrated."

Commenting on the findings of the Interstate Commerce Commission, the *Railway Age Gazette*, in its issue of August 27, 1915 (vol. 59, 374), says in part:

"Again, the Rock Island scandal has reflected odium on the managements of all the railways of the United States. Along with the Alton, New Haven, Frisco, and other similar offenses against good business and good morals, it has contributed toward further prejudicing the public and regulating authorities against the railways, so as to render it impossible for them to get fair treatment.

"It is to be wished that such mismanagement could be stopped by publicity and the voluntary concerted action of the railway financiers and executives, but experience shows that the hope that it will ever be stopped in this way is illusory. There is no way to put unscrupulous financiers out of the railway business. There is no means except Government intervention by which to keep them from committing depredations if they get into it. 'Therefore, as the commission points out, by this case the need of some limitation on the issuance of stocks and bonds by common carriers, whether directly or through holding-company devices, or otherwise, is again demonstrated.' And regulation should go still further than this. Some steps should be taken to hold directors up to the recognition and performance of the duties of their trusteeship."

## 5. OPERATING RESULTS AND CAPITALIZATION.

The Chicago, Rock Island & Pacific Railway Co. reports revenues and expenses from 1911 to 1916, both years inclusive, as follows:

*Income accounts, years ended June 30.*

	1915-16	1914-15	1913-14	1912-13	1911-12	1910-11
<i>Earnings.</i>						
Freight.....	\$50,921,932	\$47,576,608	\$44,333,447	\$46,428,045	\$41,156,835	\$43,368,396
Passenger.....	18,664,963	18,230,100	18,829,816	19,777,431	18,609,408	20,740,528
Mail and express.....	3,729,704	3,304,396	3,363,336	3,666,435	3,616,595	3,630,769
Miscellaneous.....	1,420,899	1,320,824	1,335,086	981,094	873,417	800,107
Revenue other than transportation.....	609,467	515,902	541,156	511,930	456,568	447,673
Total.....	75,346,967	70,947,890	68,675,841	71,364,935	64,712,853	68,487,473
<i>Operating expenses.</i>						
Maintenance of way and structure.....	10,548,065	9,486,976	8,945,682	9,885,324	8,493,346	9,738,016
Maintenance of equipment.....	12,648,260	11,807,657	9,951,590	10,072,854	8,302,467	9,359,749
Traffic expenses.....	1,745,573	1,877,152	1,924,849	1,999,138	1,981,399	2,007,149
Transportation.....	27,141,313	28,069,507	28,400,530	28,772,587	26,210,502	26,171,419
General and miscellaneous expenses.....	2,489,922	2,298,232	2,413,670	1,774,199	1,771,780	1,779,350
Total.....	54,543,133	53,521,615	51,635,821	52,504,102	46,759,494	49,055,683
Net earnings.....	20,803,834	17,426,275	17,040,022	18,860,833	17,953,359	19,431,790
Taxes.....	1,599,108	1,386,380	1,336,269	2,946,438	2,793,315	2,708,651
Operating income.....	17,204,726	14,059,895	13,703,753	15,914,395	15,169,044	16,723,139
Other income.....	1,406,342	1,367,916	1,836,209	1,029,795	727,245	185,477
Total income.....	18,611,068	15,407,811	15,539,962	16,944,190	15,887,289	16,908,616
<i>Deductions.</i>						
Hire of equipment.....	794,954	1,708,892	1,475,988	12,885,835	12,036,893	11,465,902
Rentals.....	2,011,534	1,955,162	1,821,414			
Interest on bonds, etc.....	12,312,198	12,136,425	11,660,902			
Miscellaneous.....	535,101	342,009	131,036			
Total deductions.....	15,653,787	16,142,488	15,089,340	12,885,835	12,036,893	11,465,902
Surplus after charges.....	2,957,281	2,734,677	450,622	4,058,355	3,850,396	5,442,714
Dividends.....			1,871,763	3,743,525	3,743,760	8,930,948
Surplus after dividends.....	2,957,281	2,734,677	2,421,141	314,830	106,636	1,511,766

<sup>1</sup> Includes \$21,257 uncollectible railway revenue in 1915-16, \$32,461 in 1914-15, and \$20,637 in 1913-14.

<sup>2</sup> Deficiency.

The operating revenues and expenses per mile of road are reported by Moody in his 1917 edition of his Analyses of Railroad Investments as follows:

*Revenues and expenses per mile.<sup>1</sup>*

[Data from Moody's analyses of investments.]

Years ended June 30—	Average miles operated.	Gross revenues.	Maintenance.			All other operating expenses.	Net operating revenue.
			Way.	Equipment.	Total.		
1907.....	7,780	\$7,742	\$1,125	\$923	\$2,048	\$3,227	\$2,467
1908.....	7,970	7,338	1,044	939	1,983	3,327	2,027
1909.....	8,026	7,623	1,128	936	2,064	3,251	2,308
1910.....	8,044	8,232	1,327	1,051	2,378	3,598	2,256
1911.....	8,026	8,533	1,214	1,166	2,380	3,732	2,421
1912.....	8,036	8,053	1,057	1,033	2,090	3,729	2,234
1913.....	8,048	8,867	1,228	1,252	2,480	4,044	2,343
1914.....	8,205	8,313	1,077	1,197	2,274	3,942	2,097
1915.....	8,330	8,517	1,137	1,417	2,554	3,871	2,092
1916.....	8,098	9,301	1,299	1,562	2,861	3,875	2,565
10-year average...	8,056	8,252	1,164	1,148	2,312	3,660	2,280

Years ended June 30—	Total net income.	Taxes accrued.	Fixed charges.	Fixed charges plus taxes.	Surplus.	Dividends paid.
1907.....	\$2,563	\$215	\$1,224	\$1,439	\$1,124	\$529
1908.....	2,080	225	1,253	1,478	602	493
1909.....	2,352	283	1,311	1,594	768	498
1910.....	2,288	358	1,338	1,696	592	465
1911.....	2,443	337	1,431	1,768	675	490
1912.....	2,323	343	1,501	1,844	479	463
1913.....	2,471	366	1,601	1,967	504	460
1914.....	2,119	404	1,670	2,070	45	( <sup>2</sup> )
1915.....	2,252	403	1,937	2,340	188	.....
1916.....	2,667	441	1,861	2,302	365	.....
10-year average.....	2,356	388	1,512	1,900	506	339

<sup>1</sup> Deficit.

<sup>2</sup> Dividend of \$1,871,762 (227 per mile) paid from surplus.

NOTE.—Above table is based on the average mileage directly operated each year.

The foregoing table shows that while the gross earnings from 1907 to 1915 increased from \$7,742 to \$8,577, or by the sum of \$775 per mile, the net income available to pay interest decreased during the same period from \$2,563 to \$2,252 per mile by the sum of \$311. The fixed charges, including taxes, however, increased from 1907 to 1915 by the sum of \$901 per mile. The taxes increased from \$215 to \$403, or by the sum of \$188 per mile, while the other fixed charges increased from \$1,224 to \$1,937, or by the sum of \$713. The fixed charges, including taxes, increased more rapidly than the gross earnings, let alone the decrease in net income available to pay taxes and other fixed charges.

The assets and liabilities of the Chicago, Rock Island & Pacific Railway Co., as of June 30, 1916, are reported by Jacob M. Dickinson, receiver, as follows:

Assets:

Road and equipment.....	\$324,283,461
Improved leased property.....	221,568
Investments in affiliated companies—	
Stocks.....	732,608
Funded debt.....	4,511,816
Advances.....	11,694,545
Other investments.....	2,258,832
Miscellaneous physical property.....	2,169,884
Deposited in lieu of property sold.....	1,258
Cash.....	3,467,506
Demands, insurance, etc.....	63,000
Special deposits.....	2,482,958
Loans and bills receivable.....	23,380
Traffic, etc., balances.....	23,380
Agents and conductors.....	1,001,437



## Assets—Continued.

Miscellaneous accounts receivable	\$2,316,450
Material and supplies	6,769,686
Other working accounts	623,566
Accrued interest, dividends, etc.	49,966
Working adv., etc.	53,660
Unadjusted debits	1,963,691
<b>Total</b>	<b>365,119,657</b>

## Liabilities:

Capital stock	74,482,523
Funded debt	263,168,144
Receiver's certificates	6,588,000
do. equip. notes	2,753,136
Due affiliated companies, nonegotiable debt	95,841
Loans and bills payable	4,100,000
Traffic, etc., balances	677,401
Accounts and wages	5,505,216
Miscellaneous accounts payable	471,628
Matured interest, dividends, etc.	3,086,175
Matured funded debt	31,738
Other deferred accounts	641,043
Accrued interest and rents	2,636,537
Taxes accrued	1,707,775
Operating reserves	2,824,198
Insurance, etc., reserves	681,316
Accrued depreciation	4,214,179
Other unadjusted accounts	2,097,995
Additions to property	64,368
Profit and loss, deb.	10,707,555
<b>Total</b>	<b>365,119,657</b>

In the foregoing balance sheet the intercompany accounts between the operating and the holding companies have been eliminated. The balance sheet does not include \$20,709 of securities issued or assumed which are pledged or \$730,580 of such securities, which are unpledged. The profit and loss account as of June 30, 1916, shows a deficit of 10,707,555 as against a deficit of \$12,530,963 on June 30, 1915. The reduction of the deficit is due primarily to the \$2,957,281 of surplus from operations during the year ending June 30, 1916.

The capitalization per mile of road is reported by Moody in his 1917 edition of his Analyses of Railroad Investments, as follows:

*Capitalization per mile of road.*

[Data from Moody's Analyses of Investments.]

Years ended June 30—	Average miles operated.	Stock out- standing and per cent of whole.	Bonds out- standing and per cent of whole.	Rentals, capitalized at 5 per cent.	Total gross capital.	Owned by company as per balance sheet.	Net capi- talization.
		<i>P. ct.</i>	<i>P. ct.</i>				
1907	7,780	\$10,808 28	\$28,130 72	\$3,076	\$42,014	\$6,594	\$35,420
1908	7,970	10,673 28	27,908 72	3,877	42,458	7,610	34,848
1909	8,026	10,655 27	28,630 73	3,817	43,102	7,168	35,934
1910	8,044	10,548 26	32,068 74	1,860	44,476	3,264	41,212
1911	8,026	10,544 26	32,358 74	2,355	45,257	3,106	42,151
1912	8,036	10,490 21	35,054 79	1,940	47,484	2,410	45,074
1913	8,048	10,491 21	35,312 79	845	46,648	2,820	43,828
1914	8,205	10,126 20	36,604 80	833	47,563	1,838	45,725
1915	8,330	8,990 22	34,735 78	797	44,522	62	44,460
1916	8,098	9,262 20	36,247 80	710	46,219	90 (1)	46,129
10-year average	8,056	10,259 24	32,704 76	2,011	44,974	3,496	41,478

NOTE.—Above table is based on the average mileage directly operated for each year. The stock column covers the total stock issue of the railways; the bond column includes all net amounts of bonds and equipment trusts, but not the loans payable; rentals represent the leaseholds, as capitalized. Securities owned represent those held unpledged, including marketable securities. For 1916 this figure represents those issued or assumed unpledged. Other securities amounting to \$19,197,802, book value, not segregated between pledged and unpledged.

The foregoing table shows that in 1907, 28 per cent of the railway company's capitalization was represented by stock and 72 per cent by bonds, whereas in 1916, 20 per cent of the capitalization was represented by stock and 80 per cent by bonds. The stock per mile on June 30, 1907, amounted to \$10,808 and on June 30, 1916, to \$9,262, the decrease being \$1,546 per mile. This decrease is attributed to the increase in mileage operated.

On June 30, 1907, the railway company had outstanding per mile of road bonds in the amount of \$28,130, as against \$36,247 on June 30, 1916. The increase in the amount of bonds outstanding amounting to \$8,117, becomes more remarkable when one takes into consideration that during this same period the mileage of the road was increased by 318 miles. The net capitalization, as shown in the foregoing table, increased from \$35,420 on June 30, 1907, to \$46,129 on June 30, 1916, the increase amounting to \$10,709 per mile. Inasmuch as the company during this period did not issue any stock, the entire increase in the capitalization represented funded debt. Assuming that the company had to pay 5 per cent interest, the increase in fixed charges per mile of road would have amounted to \$535.45. In contrast with this increase we see that the net earnings available to pay taxes and interest on June 30, 1907, amounted to \$2,563 and on June 30, 1916, to \$2,670. In other words, while the interest during the period increased by the amount of \$535.45, the net income available to pay all fixed charges increased only by the amount of \$104.

#### 6. REHABILITATION PROGRAM.

In May, 1915, the stockholders and debenture holders' committee engaged Mr. J. W. Kendrick, a railroad expert, to examine and report on the Rock Island properties. On November 1, 1915, J. W. Kendrick submitted a report in which he estimated the capital expenditures to June 30, 1919, necessary to rehabilitate the railway company's properties, as follows:

Grade revision for new lines, sidings, and second track-----	\$6,008,000
New freight locomotives-----	1,000,000
Improvements to existing equipment—cars and engines-----	3,442,000
Rails-----	750,000
Ballast and bank widening-----	3,587,000
Tie plates-----	3,000,000
Yards and terminals-----	2,207,000
Track motor cars-----	176,000
Bridges-----	280,000
Track elevation and grade separation-----	3,392,000
Advances-----	309,000
Telegraph and telephone-----	275,000
Signals-----	291,000
Miscellaneous-----	2,487,000
Total-----	27,204,000

J. W. Kendrick further estimated that during 1920 and 1921 \$4,000,000 should be expended annually for additions and betterments. He estimated that the net annual savings in operating expenses for the fiscal year ending June 30, 1919, will amount to \$5,500,000.

Immediately after the submission of the Kendrick report Receiver Jacob M. Dickinson took steps to carry out such of the suggestions made by J. W. Kendrick as the funds at his disposal permitted.

#### 7. REORGANIZATION PLAN.

The reorganization plan and agreement, dated November 14, 1916, as modified November 26, 1916, was declared operative on February 1, 1917. Up to that time approximately 95 per cent of the holders of the debentures and over 96 per cent of the stockholders had given their approval to the reorganization plan as outlined below. (Commercial and Financial Chronicle, Feb. 3, 1917.)

The reorganization plan is addressed to the holders of the 20-year 5 per cent gold debentures and to the stockholders of the Chicago, Rock Island & Pacific Railway Co. The company failed to pay the interest on \$20,000,000 of its 20-year 5 per cent gold debentures on January 15, 1916. The interest on all other bonds or funded obligations has been paid. An action, however, was instituted to foreclose the first and refunding mortgage, it being alleged that

the company is in default in matters other than the payment of interest. This litigation was successfully contested by the railway company and by the joint reorganization committee.

As stated above, the railway company has outstanding in the hands of the public \$20,000,000 face value of 5 per cent debentures, due in 1932. It also has outstanding \$74,359,722.50 par value of capital stock.

The reorganization plan outlined below has been prepared by a joint reorganization committee, consisting of Seward Prosser, chairman; Nathan L. Amster, Emile K. Boiset, Charles Hayden, James Speyer, and S. Davies Warfield.

The reorganization plan has been approved by the debenture committee, the Amster stockholders committee, and the Hayden stockholders committee.

The reorganization plan may be carried out by the existing Chicago, Rock Island & Pacific Railway Co. or the properties of that company may be transferred to a new company. In any event, the plan calls for the issue of capital stock in the amount of \$125,000,000, consisting of: (a) \$30,000,000 par value of 7 per cent preferred stock; (b) \$20,000,000 of 6 per cent preferred stock; (c) \$75,000,000 par value of common stock.

In its discretion the joint reorganization committee may issue additional 6 per cent preferred stock or 7 per cent preferred stock, or both, in an amount not exceeding \$15,000,000. The authorized amount of the preferred stock can not be increased after reorganization except by vote of a majority of each class of stock of the new company outstanding, each class voting separately. Both classes of the preferred stock shall share *pari passu* in the distribution of assets in case of insolvency or dissolution of the new company.

The 7 per cent preferred stock shall have preference and priority over the 6 per cent preferred stock as to dividends to the extent of 1 per cent in any fiscal year, which shall be first declared and paid or set aside for payment before any dividends shall be declared upon the 6 per cent preferred stock; but, after the declaration and payment or setting aside of such 1 per cent in any fiscal year on the 7 per cent preferred stock, the shares of both classes of preferred stock shall rank *pari passu* as to further dividends declared and paid thereon. The dividends on the 7 per cent preferred stock shall be cumulative up to but not exceeding 5 per cent per annum from and after such date as may be fixed by the joint reorganization committee. Dividends on the 6 per cent preferred stock to be issued in exchange for debentures shall be cumulative up to but not exceeding 5 per cent per annum from and after July 15, 1916.

The 7 per cent preferred stock is subject to redemption at \$105 per share plus accumulated dividends, while the 6 per cent preferred stock is subject to redemption at \$102 per share plus accumulated dividends.

In lieu of issuing 7 per cent preferred stock and 6 per cent preferred stock, the joint reorganization committee, if it shall deem it to be more expedient, may authorize the issue of income debentures which shall have substantially the same preferences and priorities as the proposed 7 per cent and 6 per cent preferred stock.

The reorganization plan provides for cash requirements, estimated at \$29,743,889. The joint reorganization committee has entered into a purchase agreement with Messrs. Speyer & Co. and Messrs. Hayden, Stone & Co., whereby they have agreed to purchase for the sum of \$29,743,889, less a commission of 3 per cent, the \$29,743,889 par value of 7 per cent preferred stock and the \$74,359,722.50 par value of common stock of the new company to be presently issued. The 7 per cent preferred stock and the common stock of the new company is being offered to the holders of certificates of deposit for stock of the old company. Upon the payment of an assessment amounting to \$40 per share the stockholders of the old company will be entitled to receive (a) \$100 in par value of common stock of the new company, (b) \$40 in par value of 7 per cent preferred stock of the new company.

By putting into effect the reorganization plan the joint reorganization committee has fixed the dates of the payment of the assessment as follows:

March 3, 1917	\$10
April 3, 1917	10
June 14, 1917	20
Total	40

Upon the consummation of the plan and the surrender of their respective certificates of deposit, depositing debenture holders will be entitled to receive in cash the 5 per cent arrears of interest on their debentures to July 15, 1916.



and in respect of each \$1,000 debenture, \$1,000 in par value of 6 per cent preferred stock of the new company or interim certificates or receipts representing the same. The proposed stock capitalization of the new company will be as follows:

Class of stock.	Authorized.	To be presently issued.
7 per cent preferred stock.....	\$30,000,000	\$29,743,889.00
6 per cent preferred stock.....	20,000,000	20,000,000.00
Common stock.....	75,000,000	74,359,722.50
Total.....	125,000,000	124,103,611.50

As above stated, the authorized 7 per cent and 6 per cent preferred stock may be increased by an amount not exceeding \$15,000,000.

The \$29,743,889 of cash provided for under the plan shall be applied as follows:

(a) To the payment or acquisition of—		
Two-year collateral trust gold notes.....	\$7,500,000	
Loan, Central Trust Co., secured by collateral.....	2,500,000	
Loan, Hayden, Stone & Co., secured by collateral.....	1,600,000	
Receiver's certificates, series A.....	5,488,000	
Receiver's certificates, series B.....	1,100,000	
		18,188,000
(b) To pay or acquire claims against and liabilities of the receiver, to pay interest and other debts of the new company, and to pay the expenses of the reorganization (including compensation and allowances, counsel fees, court costs, services of engineering, accounting and other experts, etc.) and other incorporation and reorganization disbursements, syndicate commissions, and miscellaneous requirements, and to provide additional working capital for the general corporate purposes of the new company.....		1,555,889
Total.....		29,743,889

In addition to the necessity to provide for the payment of notes and receiver's certificates, shown above, the joint reorganization committee estimates that the requirements of the company to December 31, 1919, will call for an expenditure of \$38,312,940.40. The estimated cash requirements are segregated as follows:

Jan. 1, 1917, to Dec. 31, 1917:	
Equipment trust obligations.....	\$2,409,946.80
Choctaw serial collateral bonds (due May 1, 1917).....	1,494,000.00
Little Rock Bridge first mortgage 6s (due July 1, 1917).....	20,000.00
First mortgage 6 per cent bonds (due July 1, 1917).....	12,500,000.00
C. & R. I. elevator first mortgage 5s (due Oct. 1, 1917).....	50,000.00
Additions and betterments.....	3,500,000.00
	\$19,973,946.80
Jan. 1, 1918, to Dec. 31, 1918:	
Equipment trust obligations.....	2,084,946.80
Choctaw serial collateral bonds (due May 1, 1918) <sup>1</sup> .....	1,494,000.00
Little Rock Bridge first mortgage 6s (due July 1, 1918).....	20,000.00
C. & R. I. elevator first mortgage 5s (due Oct. 1, 1918).....	50,000.00
Additions and betterments.....	3,500,000.00
	7,148,946.80

<sup>1</sup> Final installment.

Jan. 1, 1919, to Dec. 31, 1919:

Equipment trust obligations-----	\$2, 084, 946. 80
Little Rock Bridge first mortgage 6s (due July 1, 1919)-----	55, 000. 00
Choctaw, Oklahoma & Gulf general mortgage 5 per cent bonds (due Oct. 1, 1919)-----	5, 500, 000. 00
C. & R. I. elevator first mortgage 5s (due Oct. 1, 1909)-----	50, 000. 00
Additions and betterments-----	3, 500, 000. 00
	<u>\$11, 189, 946. 80</u>
	38, 812, 840. 40

In addition to the estimates for additions and betterments, it is intended that the new company shall expend substantial amounts for rehabilitation.

The estimated resources to December 31, 1919, are reported as follows:

Estimated balance of cash provided for in reorganization after paying all short-term loans, receiver's certificates, and expenses <sup>1</sup> -----	\$8, 000, 000
Estimated face amount of first and refunding bonds available upon the consummation of the plan, the making of the additions and betterments above specified and the retirement of the Choctaw serial collateral bonds due in 1917 and 1918, the first mortgage 6 per cent bonds due in 1917, and the Choctaw, Oklahoma & Gulf general mortgage 5 per cent bonds due in 1919-----	54, 174, 000
Face amount of St. Paul & Kansas City Short Line R. R. Co. first mortgage bonds-----	2, 757, 000
Face amount of Rich Island, Arkansas & Louisiana first mortgage bonds <sup>2</sup> -----	1, 965, 000

The reorganization plan shows that the total fixed indebtedness of the old company amounted to \$295,946,383, while that of the new company aggregates \$257,758,383, a decrease of \$38,188,000. The outstanding stock of the old company is reported at \$74,359,722.50; that of the new company at \$124,103,611.50, an increase of \$49,743,889.

The following table shows the comparison of the present with the proposed capitalization:

Description of present securities.	Amount of present securities.	Description of securities under plan.	Amount of securities under plan.
Bonds, equipment notes, and other funded obligations (not disturbed in plan).	<sup>1</sup> \$257,758,383.00	Same as at present.....	<sup>3</sup> \$257,758,383.00
Debentures.....	20,000,000.00	6 per cent preferred stock....	20,000,000.00
Two-year notes.....	7,500,000.00	.....	.....
Collateral note.....	2,500,000.00	.....	.....
Do.....	1,600,000.00	.....	.....
Receiver's certificates A.....	5,488,000.00	.....	.....
Receiver's certificates B.....	1,100,000.00	.....	.....
Stock.....	74,359,722.50	7 per cent preferred stock <sup>4</sup> ....	29,743,889.00
		Common stock.....	74,359,722.50
Total.....	<sup>1</sup> 370,306,105.50	.....	<sup>1</sup> 381,861,994.50
Total fixed charge obligations.....	<sup>1</sup> 295,946,383.00	.....	<sup>1</sup> 257,758,383.00
Total stock.....	74,359,722.50	.....	124,103,611.50

Proportion of stock to fixed charge obligations: At present, 25.12 per cent; under plan, 48.14 per cent.

<sup>1</sup> In addition, the receiver will turn over to the new company such funds as may remain undisposed of in his hands at the time of the consummation of the plan. These funds will be available for the general corporate purposes of the new company, after deducting therefrom such amounts as the new company may be required to pay in respect of renunciations and disallowances during the receivership.

<sup>2</sup> Additional bonds may be issued under these mortgages for improvements, etc., on the properties mortgaged.

<sup>3</sup> Includes \$16,199,000 first and refunding bonds, \$1,965,000 R. I. A. & L. first mortgage bonds and \$2,545,000 St. P. & K. C. S. L. first mortgage bonds that are now pledged as collateral security for obligations of the railway company, but that will become available, as treasury assets of the new company, upon the payment of those obligations as contemplated in the plan. Also includes \$212,000 St. P. & K. C. S. L. first mortgage bonds in the receiver's treasury.

<sup>4</sup> Sold for \$29,743,889 in cash.

The decrease in the fixed interest charges is reported at \$2,054,400 and is shown by the following table:

Description of securities.	Amount. <sup>1</sup>	Present interest charges. <sup>2</sup>	Interest charges after reorganization. <sup>2</sup>
Bonds, equipment, notes, and other funded obligations not disturbed in plan.....	\$257,758,383	\$10,222,695.95	\$10,222,695.95
Debentures.....	20,000,000	1,000,000.00	.....
Two-year notes (interest and commission).....	7,500,000	525,000.00	.....
Collateral note.....	2,500,000	125,000.00	.....
Do.....	1,600,000	64,000.00	.....
Receiver's certificates, series A.....	5,488,000	274,400.00	.....
Receiver's certificates.....	1,100,000	66,000.00	.....
Total.....	295,946,383	12,277,095.95	10,222,695.95
Decrease.....	2,054,400		

<sup>1</sup> See note 3 under next preceding table.

<sup>2</sup> Computed on securities in hands of public on November 2, 1916.

*Discharge of receiver.*—On June 24, stockholders of the Chicago, Rock Island & Pacific Railway Co. resumed possession of the company. The receiver was discharged without a foreclosure sale. In its issue of June 16 the Commercial and Financial Chronicle, referring to the discharge of the receiver and to the arrangements which had been made to pay on and after July 1 the \$12,000,000 of first-mortgage 6 per cent bonds without the sale of additional securities, quoted Judge Carpenter as saying:

"The able administration of this property by Judge Dickinson, as receiver, has made this extraordinary proceeding possible. This is a reorganization without a sale, the property returning to the original company, and in this the proceeding is historical in the annals of receivership. The Rock Island will pay its debts and it has plenty of money with which to do so."

In its issue of June 27, 1917, the Wall Street Journal quotes N. L. Amster, chairman of the stockholders' protective committee of the Rock Island, as saying:

"The restoration of the property to the stockholders marks a satisfactory culmination of a long uphill struggle which the minority stockholders have had in their fight for self-protection. It was a hard and strenuous fight, lasting nearly three years, but the achievements were worth the efforts.

"The Rock Island reorganization is epoch-making in financial history. It marks the end of corporate despotism and enthrones the rule of right and democracy in American corporations—will be a torchbearer for future equitable and honest railroad reorganizations. History does not record one so fair, so clean, and so equitable and inexpensive to the stockholders as this. Every valid creditor received his full due, every bondholder protected, every stockholder receiving his original stock and a good 7 per cent investment for the new money invested.

"In a nutshell, the stockholders' protective committee, of which I am chairman, obtained for the original collateral bondholders:

"An equitable distribution of the old railway stock that secured their bonds.

"Instituted suit and obtained for the company a settlement equal to \$2,500,000 and cost from the old directors.

"Reached an adjustment with the debenture bondholders whereby the bonds were exchanged into 6 per cent preferred stock.

"Obtained for the stockholders for their cash assessment preferred stock carrying 1 per cent more dividend than that stock issued in exchange for the debenture bonds. (This 1 per cent extra makes the preferred stock given to the stockholders for their cash worth \$17 per share more than the 6 per cent stock given in exchange for the debenture bonds, or over \$5,000,000 to the stockholders on the \$30,000,000 they subscribed.)

"Opposed and defeated the Peabody committee's efforts to declare the refunding mortgage due and to sell the railway property under that mortgage, which, if successful, would not only have wiped out the stockholders' equity but would have dissipated the equity of the debenture bonds as well.



"Through our efforts the company's charter has been so modified as to elect the entire board annually instead of only a third of the board. This will insure the minority stockholders representation on the board of directors.

"The property goes back into the hands of the stockholders in the best physical condition and with more and better equipment than ever in its history. Funded debt is reduced some \$25,000,000 and annual fixed charges are reduced about \$2,000,000. This company has no floating debt, and has over \$40,000,000 in good marketable bonds free in its treasury for working capital and extensions and improvements. It has no important maturities or financing to take care of until 1934."

#### RECEIVERSHIP OF CHICAGO, PEORIA & ST. LOUIS RAILROAD CO.

##### A. REORGANIZATION IN 1900.

Chicago, Peoria & St. Louis Railroad Co., hereinafter referred to as the railroad company, was incorporated December 6, 1909, for the purpose of acquiring the properties of Chicago, Peoria & St. Louis Railway Co., hereinafter referred to as the railway company.

The railroad company refrained from taking possession of the railway company properties until the Federal courts had passed on the Illinois 2-cent passenger rate law. On September 27, 1912, Judges Baker, Sanborn, and Humphrey held that the law was confiscatory in so far as it applied to the Chicago, Peoria & St. Louis Railway Co. Shortly after this decision the properties of the railway company were sold at foreclosure sale. The railroad company took possession of the properties in January, 1913.

John P. Ramsey, president of the railway company, alleged that the receivership of the railway company was due to adverse legislation and the panic of 1907. (Com. and Fin. Chron., vol. 90, p. 104.)

The capitalization of the railway company and the plan of reorganization may be of interest. According to the reorganization plan (Com. and Fin. Chron., vol. 89, p. 285) the capitalization of the railway company consisted of:

Prior lien 4½ per cent bonds	\$2,000,000
Consolidated mortgage 5 per cent bonds	2,000,000
Income mortgage 5 per cent bonds	2,000,000
Preferred stock	3,750,000
Common stock	3,600,000
Equipment car trust certificates	181,000
Consolidated mortgage coupons overdue	96,750
<b>Total</b>	<b>13,627,750</b>

The reorganization plan of 1909, under which the railroad company now in the hands of receivers was organized, provided for the issue and exchange of securities as follows:

Securities deposited.	Cash payment to reorganization committee.	New general and refunding 4½'s.	New stock under voting trust.
1,000 consolidated mortgage bonds		<sup>1</sup> \$500.00	\$625.00
100 consolidated mortgage bonds coupons		<sup>1</sup> 50.00	62.50
1,000 equipment car trust certificates		1,000.00	
1,000 income bonds	\$100.00	100.00	400.00
100 preferred stock	7.00	7.00	24.50
100 common stock	3.00	3.00	9.00

<sup>1</sup> Interest on these bonds reduced to 3 per cent for 6 years.

Those who failed to make the cash payment indicated in the preceding table received the following securities: For each \$1,000 income bonds, new common stock, \$60; for each 100 preferred stock, new common stock, \$4; for each 100 common stock, new common stock, \$2.

The properties were sold, subject to the \$2,000,000 prior lien 4½ per cent bonds.

The railroad company's authorized capital stock amounting to \$4,000,000 was to be all issued, as were also \$2,850,000 of the new general and refunding 4½ per cent bonds, to effect the reorganization.

The stock was, until 1915, held under a voting trust, the trustees being Charles H. Warren, George F. Baker, jr., and Alfred Shephard.

The outstanding features of the reorganization plan of 1909 are: (a) Conversion of 5 per cent consolidated bonds into 4½ general and refund, interest being 3 per cent for 6 years; (b) the conversion of income bonds, preferred and common stock of railway company into common stock of railway company; (c) the levying of assessments on stock and bondholders to permit them to participate advantageously in plan, as follows:

(1) Income bondholders	\$200,000
(2) Preferred stockholders	262,500
(3) Common stockholders	108,000
<b>Total</b>	<b>570,500</b>

Published reports available do not show how much of the assessment was paid. The reorganization in 1909 was not sufficiently drastic to save company from another receivership in 1914.

#### B. MILEAGE.

The mileage owned and operated on June 30, 1916, is the same as on June 30, 1912. It is reported as follows:

##### *Lines owned:*

	Miles.
Pekin to Granite City, Ill.	179.20
Granite City to Madison, Ill.	1.77
Madison to Bridge June., Ill.	3.07
Havana to Jacksonville, Ill.	41.88
Lock Haven to Grafton, Ill.	8.40

**Total owned** 234.32

*Proprietary line*, Alton Terminal Ry. at Alton, Ill. 1.00

##### *Trackage rights:*

Peoria & Pekin Union Ry., Peoria to Pekin, Ill.	9.40
St. Louis Merchants Bridge Terminal Ry., Granite City to St. Louis	
Union Station, Mo.	9.00
Litchfield & Madison Ry. at Madison, Ill.	0.25
Illinois Central and B. & O. S. W. Ry. at Springfield, Ill.	1.50

**Total trackage rights** 20.15

**Total length of all lines** 255.47

Gauge	Standard
Second track	0.49
Sidings	81.76
Rails, steel	lbs. 60 to 85
Locomotives	51
Passenger cars	37
Freight cars	1,842
Service cars	126

#### C. APPOINTMENT OF RECEIVER IN 1914.

On July 31, 1914, Bluford Wilson, president of the railroad company, and William Colter, of New York, were appointed receivers for the Chicago, Peoria & St. Louis Railroad Co. by the circuit court at Springfield, Ill. The appointment of receivers was precipitated by the failure of the company to pay on July 1, 1914, the interest on its general and refunding bonds. On September 1, 1914, the railroad company defaulted in payment of interest on its prior lien 4½ per cent bonds.

The difficulties of the railroad company are due primarily to its relative high operating expenses.

Statements published by the company show the following operating ratio:

	Per cent.		Per cent.
1909 .....	89.5	1914 .....	100.7
1910 .....	84.0	1915 .....	88.4
1911 .....	88.1	1916 .....	88.4
1912 .....	90.2		

No complete report was published for 1913.

In 1911 officers of the company reported that increases in wages and legislation fixing maximum hours of labor resulted in increasing the operating expenses, while the earnings remained approximately the same.

#### D. REVENUES AND EXPENSES.

Moody, in his Analyses of Railroad Investments, reports the revenues and expenses of the Railroad Company as follows:

#### *Revenues and expenses.*

Item.	1916	1915	1914	1912	1911	1910
Operating revenues .....	\$1,752,800	\$1,597,909	\$1,676,617	\$1,688,867	\$1,766,300	\$1,766,968
Operating expenses .....	1,429,779	1,412,315	<sup>1</sup> 1,688,511	1,512,956	1,555,591	1,485,117
Net operating revenues ..	323,021	185,594	11,894	165,911	210,709	281,851
Other income .....	11,653	7,201	13,734	21,100	42,726	6,979
Total net income .....	334,674	192,795	1,840	187,011	253,436	228,830
Taxes accrued .....	63,015	65,863	72,265	50,505	52,031	53,786
Balance for charges .....	271,659	126,832	<sup>1</sup> 70,425	136,506	201,405	175,044
Fixed charges .....	166,472	215,226	287,103	156,425	161,207	122,988
Surplus .....	105,187	<sup>1</sup> 88,289	<sup>1</sup> 257,528	<sup>1</sup> 19,918	40,198	112,055

<sup>1</sup> Deficit.

During 1916 less than 16.5 per cent of gross revenue was derived from passenger business.

The revenue freight tonnage is reported as follows:

1910 .....	2,422,424
1911 .....	2,140,058
1912 .....	2,070,108
1914 .....	2,086,267
1915 .....	2,029,167
1916 .....	2,345,911

The freight traffic is classified as follows:

Commodity.	1910	1911	1912	1914	1915	1916
	<i>Per cent.</i>	<i>Per cent.</i>	<i>Per cent.</i>	<i>Per cent.</i>	<i>Per cent.</i>	<i>Per cent.</i>
Products of agriculture .....	14.22	16.41	15.89	16.06	16.24	14.89
Products of animals .....	1.19	1.62	1.53	1.31	1.18	1.02
Products of mines .....	44.44	35.69	42.30	40.08	39.63	42.50
Products of forests .....	12.02	15.01	12.43	16.23	14.89	11.91
Manufactures .....	10.37	12.31	10.66	10.00	11.00	13.37
Miscellaneous .....	17.76	17.96	17.19	15.69	17.06	16.31

Products of mines furnish nearly 50 per cent of freight traffic.

The revenues and expenses per mile of line operated are shown in the following table:



# Revenue and expenses per mile operated.

[Data from Moody's Analyses of Railroad Investments.]

Year ended June 30 —	Average miles operated.	Maintenance.		All other operating expenses.	Net oper- ating revenues.	Other revenues.	Total net income.	Taxes accrued.	Fixed charges.	Taxes and fixed charges.	Surplus over charges.	Dividend paid.
		Way.	Equip- ment.									
1903.....	255	\$1,058	\$1,204	\$3,742	\$545	\$61	\$606	\$213	\$700	\$913	1,8307	.....
1907.....	255	6,550	1,319	3,403	968	14	982	179	724	903	79	.....
1908.....	255	5,706	1,382	2,968	322	111	633	204	837	1,041	1,408	.....
1909.....	255	6,125	1,471	2,278	642	16	658	202	917	1,119	1,461	.....
1910.....	255	6,329	1,299	2,389	3,435	28	1,133	211	474	685	437	.....
1911.....	255	6,927	1,416	2,401	3,699	167	994	204	633	837	157	.....
1912.....	255	6,611	1,354	3,676	649	84	733	198	613	811	1,78	.....
1914.....	255	6,575	1,568	2,844	1,47	54	7	283	1,126	1,409	1,402	.....
1915.....	255	6,266	1,254	3,212	728	28	756	258	844	1,102	1,346	.....
1916.....	255	6,874	1,368	3,312	1,267	45	1,312	247	653	900	412	.....
10-year average....	255	6,521	1,364	3,443	720	61	781	220	752	972	191	.....

1 Deficit.

NOTE.—Above table is based on the average mileage directly operated for each year. No full income account was furnished for the year 1913, and therefore the averages for that year are omitted.

No complete report published for 1913.

The reader's attention is directed to the heavy operating expenses per mile, as shown in the preceding table.

## E. ASSETS AND LIABILITIES.

As of June 30, 1916, the railroad company and its receivers report assets and liabilities as follows:

*Receiver's balance sheet, June 30, 1916.*

## Assets:

Road and equipment	\$61,515
Cash	125,214
Traffic balances due	10,353
Agents and conductors	39,215
Materials and supplies	96,446
Miscellaneous	108,894
C., P. & St. L. R. R. Co.	78,148
Profit and loss	

Total assets	519,785
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## Liabilities:

Audited accounts and wages	277,918
Matured interest unpaid	45,340
Accrued interest, etc.	34,870
Miscellaneous	80,247
Accrued taxes	30,697
Accrued depreciation	20,273
Profit and loss	30,440

Total liabilities	519,785
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*Chicago, Peoria & St. Louis Railroad balance sheet, June 30, 1916.*

## Assets:

Road and equipment	\$8,166,361
Investments—	
Alton Terminal Railway stock	50,000
Alton Terminal Railway bonds	50,000
Peoria & Perkin Union Railway stock	250,000
Cash	55
Other current assets	4,557
Unadjusted debts	6,958
Unpledged securities issued or assumed	850,000
Profit and loss	766,913

Total assets	10,144,843
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## Liabilities:

Capital stock	4,000,000
Prior line M. 4½s	2,000,000
General and refunding M. 4½s	2,850,000
Equipment tr. notes A	472,000
Interest notes	165,869
Audited accounts and wages	295,628
Matured interest unpaid	184,121
Miscellaneous	18,637
B. Wilson and W. C. Cotter, receivers	78,149
Reorganization committee account	80,439

Total	10,144,843
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The capitalization per mile of road operated is shown by the following table:

*Capitalization per mile of road.*

[Data from Moody's Analyses of Investments.]

Years ended June 30—	Average miles operated.	Stock outstand- ing and per cent of whole.	Bonds outstand- ing and per cent of whole.	Rentals capital- ized at 5 per cent.	Total gross capital.	Owned by company as per balance sheet.	Net capital- ization.
1910.....	255	\$28,996	<i>P. ct.</i> 54	\$25,160	46	Nominal..	\$54,156
1911.....	255	28,996	54	25,580	46	...do.....	54,156
1912.....	255	15,690	51	15,090	49	...do.....	30,780
1914.....	255	15,686	42	21,667	58	...do.....	37,353
1916.....	255	15,686	43	20,871	57	...do.....	36,557
5-year average...	255	21,011	49	21,673	51	.....	42,600

NOTE.—In the above table, figures for 1912 are those originally proposed prior to the reorganization of 1913. Those shown for 1914 are the actual figures as finally adopted.

No balance sheet was furnished by the receivers for the year ended June 30, 1915, and therefore the year 1915 is omitted from the above table. As the property is to be reorganized, a financial statement is now of little practical value.

To date (May 15, 1917) no reorganization plan has been submitted to the security holders.

RECEIVERSHIP OF CINCINNATI, BLUFFTON & CHICAGO RAILROAD.

The Cincinnati, Bluffton & Chicago Railroad was incorporated under the laws of Indiana March 9, 1903, for the purpose of building a line of railroad from Huntington to Union City, Ind., 75 miles; the Bluffton to Portland Division, 29 miles, was put in operation 1904-5; the Huntington to Bluffton Division, 23 miles, on January 15, 1908. The company has constructed and is operating 52 miles of road.

On March 14, 1908, John C. Curtis, general manager, was appointed receiver.

The road was advertised to be sold on March 15, 1911, the upset price being fixed at \$800,000. No bidders appeared on the date fixed for sale. On March 15, 1914, the road was sold to Fred A. Dolph, representing creditors, for \$357,000. Dolph proposed to transfer the property to the newly organized Huntington, Bluffton & Portland Railroad Co., which was to issue common stock \$278,000, preferred stock \$222,000, first-mortgage bonds \$700,000; total, \$1,200,000.

To finance the first payment of \$113,000 on the purchase price and to obtain funds for working capital, Dolph attempted to sell \$150,000 of debentures, said debentures to be refunded through the issue of first-mortgage bonds. Funds necessary to make the second and third payment and to electrify the road were to be obtained through the issue of first-mortgage bonds. The bondholders of the old company were called upon to exchange their claims for stock in the new company. The capitalization of \$1,200,000 was based upon the valuation made by J. G. White Engineering Corporation, which found the value of the old properties to be \$901,964. The cost of electrifying the line was estimated at \$300,000.

Fred A. Dolph was unable to dispose of sufficient bonds to make the final payment and the properties remained under the control of the receiver. In January, 1917, it was reported that J. M. Wilson, of Cincinnati, had purchased the properties and that he contemplated extensions from Portland to Cincinnati via Hamilton and from Huntington to South Bend via Columbia City and northern lake resorts. In February, 1917, J. M. Wilson reported to the Commercial and Financial Chronicle that he would extend the line during the present and coming year, but that the organization which will do this work had not yet been formed.



The assets and liabilities of the Cincinnati, Bluffton & Chicago Railroad were, on June 30, 1916, reported as follows:

**Assets:**

Property investment.....	\$1, 164, 305
Working assets.....	3, 827
Profit and loss.....	1, 733, 780
<b>Total.....</b>	<b>2, 901, 912</b>

**Liabilities:**

Capital stock.....	1, 125, 000
Funded debt.....	1, 695, 178
Working liabilities.....	73, 134
Accrued liabilities not due.....	8, 600
<b>Total.....</b>	<b>2, 901, 912</b>

Moody's reports show that the funded debt consists of \$1,500,000 of bonds and \$195,178 of receiver's certificates. (Moody's Manual, 1917, p. 282.) The bonds are reported as being deposited to secure loans.

The revenues and expenses of Cincinnati, Bluffton & Chicago are reported as follows:

*Revenues and expenses.*

Item.	1916	1915	1914	1913	1912	1911
Gross revenues.....	\$77, 192	\$86, 781	\$97, 789	\$90, 477	\$72, 035	\$67, 991
Operating expenses.....	73, 772	79, 927	99, 726	80, 397	65, 631	63, 449
Net operating revenues.....	3, 420	6, 854	<sup>1</sup> 1, 937	10, 080	6, 404	4, 542
Other income.....	1, 255	62				
Total net income.....	4, 675	6, 916	<sup>1</sup> 1, 937	10, 080	6, 404	4, 542
Taxes.....	8, 600	8, 200	8, 142	(2)	7, 840	7, 250
Fixed charges.....	(2)	75, 000	84, 600	(2)	75, 000	75, 000
Deficit.....	3, 925	76, 284	94, 679	(2)	76, 436	77, 708

<sup>1</sup> Deficit.<sup>2</sup> Incomplete reports.

## RECEIVERSHIP OF CINCINNATI, HAMITON &amp; DAYTON RAILWAY CO.

The report by the Interstate Commerce Commission of March 17, 1917, entitled "In re Pere Marquette Railroad Co., and Cincinnati, Hamilton & Dayton Railway Co.," presents one of the most sordid studies in railroad finance. Not only does it involve railroad promoters but men prominent in financial and banking circles. To quote from the Interstate Commerce Commission's report.

"Nothing disclosed in the record before us is to be more regretted than the readiness of great banking institutions in our financial centers to loan enormous sums of money upon exceedingly precarious security in aid of such schemes as have been devised in the wrecking of these railroads. Not only this, but the high officers of such institutions, while acting ostensibly as directors of the railroads, have in fact been little more than tools and dummies for the promoters. The trustees of other people's money seem to have had little compunction about violations of their trusts for the benefit of the promoters, and at their demand."

To quote from the report:

"Unwise management contributed to the downfall of these roads, but breach of trusts by corporate officials, often for personal gain, was the main cause here, as in the records developed in other investigations. (Consolidations and combinations of carriers, 12 I. C. C., 277; the New England investigation, 27 I. C. C., 560; St. Louis & San Francisco Railroad investigation, 29 I. C. C., 139; Financial investigation of New York, New Haven & Hartford Railroad Co., 31 I. C. C., 32; Financial transactions Chicago, Rock Island & Pacific Railway Co., 36 I. C. C., 43.) That downfall, with its deplorable consequences, can be traced only to betrayal within, and not to compulsion from without. Neither rivalry, nor rate level, nor regulation, nor all combined, can be found on this record to have contributed in any appreciable degree to the disaster."

The Interstate Commerce Commission in its report of March 17, 1917, outlines in detail the consolidation of the Cincinnati, Hamilton & Dayton properties in 1895; the Cincinnati, Hamilton & Dayton Common Stock Syndicate management in 1904; the Zimmerman-Hollins control in 1905-1905; the sale of the Cincinnati, Hamilton & Dayton properties by J. P. Morgan & Co. to the Erie in 1905; the rescission of this sale; the receivership in 1905, and the acquisition of the properties by the Baltimore & Ohio in 1909.

In this report, reference will be made only to the more important financial transactions which have contributed to the downfall of the Cincinnati, Hamilton & Dayton.

Up to 1895, this road had a fairly successful career despite the fact that in 1886 and 1887, Henry S. Ives exploited the property for more than \$2,235,000.

The present corporation, the Cincinnati, Hamilton & Dayton Railway Co., was formed by the consolidation of the Cincinnati, Hamilton & Dayton Railroad Co., and Cincinnati, Dayton & Ironton Railroad Co., and the Cincinnati, Dayton & Chicago Railroad Co. The organization of the new company was effected July 30, 1895. At that time, the Cincinnati, Hamilton & Dayton Railroad Co. owned all of the stock of the Cincinnati, Dayton & Ironton, and Cincinnati, Dayton & Chicago. Of the \$5,742,100 of Cincinnati, Hamilton & Dayton stock outstanding on June 30, 1895, \$4,667,600 were exchanged for \$14,867,600 of stock in the new company, resulting in an inflation of \$10,200,000. Through this consolidation, no property was added to the Cincinnati, Hamilton & Dayton. The consolidation merely amounted to change in the title of several lines. All of the investments by the Cincinnati, Hamilton & Dayton and the lines consolidated had been made sometime previously and were already recorded amongst its assets. The Interstate Commerce Commission finds that there was no excuse for the inflation of the capital to the extent of \$10,200,000. The inflation of the capital to the extent of \$10,200,000 becomes important in connection with the transaction by the Cincinnati, Hamilton & Dayton Common Stock Syndicate and subsequent transactions referred to below.

From 1895 to 1904 the Cincinnati, Hamilton & Dayton continued to earn its fixed charges and disbursed as dividends on its preferred stock \$3,392,527.71 and a 2 per cent dividend (\$160,000) on its common stock, while its accumulated surplus during this period aggregated \$2,360,003.59. A 2 per cent dividend on the preferred stock was paid in 1903.

From 1901 and prior to July, 1904, J. P. Morgan & Co. had acquired 20,286 shares of the stock of the Cincinnati, Hamilton & Dayton. While the stock did not stand in the name of J. P. Morgan & Co., the evidence submitted to the Interstate Commerce Commission shows that this firm was the real owner.

The so-called "Prince Syndicate" had secured control of the Pere Marquette in 1902. Shortly thereafter, it desired to secure control of the Cincinnati, Hamilton & Dayton. Certain minority stockholders of the Pere Marquette objected to the policies being pursued by those in control of the company. To obviate this criticism, the Prince Syndicate concluded to acquire control of the Cincinnati, Hamilton & Dayton and have it to acquire control of the Pere Marquette. At this time, the capital stock of the Cincinnati, Hamilton & Dayton outstanding amounted to \$16,000,000. Of this, \$8,700 was in the treasury and \$1,074,500 had no voting rights. Consequently, to obtain control, the syndicate had to purchase 74,585 shares. The promoters organized what is known as the "Cincinnati, Hamilton & Dayton Common Stock Syndicate." To secure subscriptions, they pledged the Cincinnati, Hamilton & Dayton to purchase a controlling interest in the Pere Marquette. They further pledged the Pere Marquette and Cincinnati, Hamilton & Dayton to guarantee \$3,600,000 of bonds of a third carrier (Toledo Terminal & Railway Co.) and its subsidiary, to purchase control of a fourth carrier (the Toledo-Riverside Railway Co.), to track-age contracts, express contracts, and equipment contracts.

The Cincinnati, Hamilton & Dayton Common Stock Syndicate agreement provided for the purchase of about 65,000 shares of common stock and 10,000 shares of the 5 per cent preferred stock of the Cincinnati, Hamilton & Dayton at prices not to exceed \$125 and \$110 per share, respectively. The following agreed to sell Cincinnati, Hamilton & Dayton stock:

Name.	Shares of common.	Shares of preferred.
Henry F. Shoemaker.....	44,550	6,400
E. Zimmerman.....	12,000	2,400
Rush-Taggart, by H. F. Shoemaker.....	1,450	300
M. D. Woodford, by G. R. Balch, attorney.....	7,000	900
Total.....	65,000	10,000

Included in the 44,500 shares of common stock, which Henry F. Shoemaker agreed to sell to the syndicate, were 20,286 shares belonging to J. P. Morgan & Co.

No sooner had the common-stock syndicate secured control of the Cincinnati, Hamilton & Dayton than it proceeded to carry out its program. Included in the syndicate were promoters of the Toledo Terminal & Railway Co. and the Toledo-Riverside Railway Co. On both these properties large sums had been expended without any prospect of either property paying any return on the investment. Stock of both companies was regarded as worthless, but through the Cincinnati, Hamilton & Dayton Common Stock Syndicate was sold to the ere Marquette at a profit of \$2,300,000 to the promoters.

The next step was the purchase of 110,000 shares of Pere Marquette common from H. F. Prince & Co. at \$125 per share. The investigation by the Interstate Commerce Commission shows that most of this stock was acquired by H. F. Prince & Co. at \$85 or less. The Cincinnati, Hamilton & Dayton at its option was permitted to pay for the stock in cash or \$75 per share in 4 per cent refunding mortgage bonds plus \$50 per share in new Cincinnati, Hamilton & Dayton common stock, or in two-year noninterest bearing notes. The Cincinnati, Hamilton & Dayton exercised its option and issued in payment for the 110,000 shares of Pere Marquette 4 per cent refunding bonds and two-year non-interest bearing notes convertible into common stock at par.

Preferred stockholders of the Cincinnati, Hamilton & Dayton objected strenuously to the acquisition of the Pere Marquette stock. To free the management of the company of any criticism, those in control concluded to redeem the 5 per cent preferred stock at 110. In reality, this stock was redeemed at a cost of \$140 per share. To finance the redemption, the Cincinnati, Hamilton & Dayton management called in H. B. Hollins & Co. Hollins & Co. refused to undertake the redemption of the preferred stock unless at the same time they were given the opportunity to acquire control of the Cincinnati, Hamilton & Dayton. In this effort they were successful. To finance the redemption of the preferred stock and refund the two-year noninterest bearing notes, which were issued in part payment for the Pere Marquette stock, the Cincinnati, Hamilton & Dayton issued \$15,000,000 of 4½ per cent 3½-year collateral trust notes. Of the notes, \$9,388,000 were set aside to redeem the preferred stock, while the proceeds from \$5,612,000 were to be used to redeem the \$5,500,000 of noninterest bearing two-year notes issued as part payment for the Pere Marquette common stock. These notes were issued to H. B. Hollins & Co. at 90 and through them and their associates resold at 98. Taking into account the discount on the notes, the expenses incidental to their issue, the commissions paid banking institutions, and the \$12 bonus, one finds that the cost to redeem the 5 per cent preferred stock exceeded \$140 per share. At the time of the redemption of this stock it was selling at about \$105.

To redeem 4 per cent preferred stock in the amount of \$1,074,500, the Cincinnati, Hamilton & Dayton management concluded to sell \$1,162,000 of the Cincinnati, Indiana & Western bonds held by it as an investment. By this sale fixed charges to the extent of \$87,500 were added to the Cincinnati, Hamilton & Dayton properties.

During 1904-5 Cincinnati, Hamilton & Dayton indorsed its guaranty on \$9,207,000 Pere Marquette 4 per cent bonds.

Between September 12 and October 20, 1905, J. P. Morgan & Co. agreed to purchase from H. B. Hollins & Co. for \$11,218,000.37, 72,456 shares of the Cincinnati, Hamilton & Dayton. Of these, 56,000 shares were to be paid for at \$160 per share and the balance at \$135. The disclosures by the Interstate Commerce Commission show that J. P. Morgan & Co. were purchasing this stock for the Erie Railroad. The transfer was actually effected, but at the



suggestion of E. H. Harriman, President Underwood of the Erie obtained J. P. Morgan & Co. to rescind the contract. Immediately after the rescission of this contract J. P. Morgan & Co. took steps to place the properties of the Cincinnati, Hamilton & Dayton in the hands of a receiver. The receiver retained control of the properties until 1909, when the control thereof was transferred by J. P. Morgan & Co. to the Baltimore & Ohio. The Baltimore & Ohio since acquiring control of the Cincinnati, Hamilton & Dayton has found the same to be a heavy drain upon its resources. The Interstate Commerce Commission finds that the Baltimore & Ohio up to June 30, 1916, had actually expended or anticipated expenditures on behalf of the Cincinnati, Hamilton & Dayton in the amount of \$39,260,831.

The Pere Marquette stock, for which the Cincinnati, Hamilton & Dayton had paid \$125 per share, was sold to J. P. Morgan for \$23, the loss to the Cincinnati, Hamilton & Dayton on this investment, including expenses incidental thereto, aggregating over \$12,000,000.

On June 30, 1914, Cincinnati, Hamilton & Dayton reported an accumulated deficit of \$29,878,658.83.

The report of the Interstate Commerce Commission shows beyond question that the difficulties of the Cincinnati, Hamilton & Dayton are due to excessive fixed interest-bearing obligations and to financial manipulations which converted stock and noninterest bearing obligations into fixed obligations on which interest had to be paid.

To summarize, the Cincinnati, Hamilton & Dayton properties were consolidated in 1896, passed under the control of the Cincinnati, Hamilton & Dayton Common Stock Syndicate in 1905, and acquired by the Baltimore & Ohio in 1909. The changes in the outstanding capital stock and fixed interest-bearing obligations in 1896, 1905, 1909, and 1914 are as follows:

	June 30, 1896.	June 30, 1905.	June 30, 1909.	June 30, 1914.
<b>Stock:</b>				
Common.....	\$8,000,000.00	\$7,999,600.00	\$7,999,600.00	\$7,999,600.00
5 per cent preferred.....	6,396,000.00	302,804.00	248,575.00	248,575.00
4 per cent preferred.....	1,604,000.00			
<b>Total.....</b>	<b>16,000,000.00</b>	<b>8,302,404.00</b>	<b>8,248,175.00</b>	<b>8,248,175.00</b>
<b>Long-term debt:</b>				
Bonds and equipment obligations..	11,228,000.00	38,696,424.00	38,064,999.00	49,918,000.00
Receivers' certificates.....			955,298.00	
Debt due affiliated companies.....	142,000.00	1,010,043.85	364,908.58	10,565,715.76
<b>Total.....</b>	<b>11,370,000.00</b>	<b>39,706,467.85</b>	<b>39,385,205.58</b>	<b>60,483,715.76</b>
<b>Current assets.....</b>	<b>3,370,990.28</b>	<b>4,398,001.11</b>	<b>2,155,599.59</b>	<b>2,422,007.12</b>
<b>Current liabilities.....</b>	<b>2,043,562.68</b>	<b>4,437,259.26</b>	<b>10,054,333.44</b>	<b>3,818,906.94</b>

On June 30, 1896, the Cincinnati, Hamilton & Dayton owned 317.99 miles of road and operated under lease trackage rights additional mileage in the amount of 541.38, whereas on June 30, 1914, the company owned 314.59 miles and operated under lease trackage rights, etc., 1,015.27 miles.

The operating revenues and expenses of Cincinnati, Hamilton & Dayton per mile of road operated are reported by Moody in his Analyses of Investments of Steam Railroads, as follows:

*Operating statistics per mile of road.*

[Data from Moody's Analyses of Investments.]

Year.	Miles operated.	Gross revenues.	Operating expenses.	Net operating revenues.	Net income.	Taxes accrued.	Fixed charges.	Deficit.
1905.....	1,032	\$7,761	\$5,818	\$1,943	\$2,036	\$306	\$1,944	\$214
1906.....	1,038	8,091	6,184	1,907	2,023	474	2,655	1,106
1907.....	1,038	8,620	6,534	2,086	2,184	269	2,745	830
1910 <sup>1</sup> .....	1,036	9,118	7,324	1,794	1,887	298	2,285	696
1911.....	1,015	9,381	7,252	2,129	2,242	373	2,531	662
1912.....	1,015	9,684	7,212	2,472	2,661	392	2,875	606
1913.....	1,015	9,922	7,943	1,979	2,184	424	3,379	1,619
1914.....	1,015	9,935	9,595	340	551	458	3,851	3,758
1915.....	1,011	9,620	8,478	1,142	1,365	425	3,999	3,059
1916 <sup>2</sup> .....	622	15,460	11,722	3,738	4,111	542	5,490	1,921
10-year average..	984	9,759	7,806	1,953	2,124	396	3,175	1,447

<sup>1</sup> Owing to the fact that this road was in receiver's hands during 1908-9, no annual reports were published, and the averages are based on a 10-year record with these years omitted. Yard tracks and sidings 344 miles, June 30, 1916.

<sup>2</sup> 1916 figures exclude the C. I. & W. Ry., which was sold at foreclosure sale Sept. 9, 1915, and turned over to the new company Dec. 1, 1915.

It will be noted that the fixed charges of the Cincinnati, Hamilton & Dayton increased from \$1,944 per mile in 1905 to \$3,999 in 1915 and \$5,490 in 1916. The increase in 1916 is due in part to the sale of the Chicago, Indianapolis & Western, resulting in a decrease in the mileage operated from 1,011 to 622.

On July 2, 1914, Judson Harmon and Rufus B. Smith were appointed receivers for Cincinnati, Hamilton & Dayton.

Foreclosure proceedings followed. In September, 1915, the properties of Cincinnati, Indianapolis & Western Railroad Co. were sold. The lines of this company, 360 miles, extend from Hamilton, Ohio, to Springfield, Ill., and from Sidell to West Liberty, Ill. Through this foreclosure sale the Cincinnati, Hamilton & Dayton stock-owning interest was completely wiped out and book assets in the amount of \$2,303,352.52 must be written off.

Through the reorganization 368 miles of Cincinnati, Hamilton & Dayton become an integral part of the Baltimore & Ohio. This mileage consists of the leasehold of the Dayton & Michigan, main line from Dayton to Toledo; the line from Cincinnati to Dayton, the main line branches from Tontogany to North Baltimore, from Deshler to Findlay; from Hamilton to Middletown; from Piqua to Troy and Dayton to Ironton Junction. In effect, the Baltimore & Ohio becomes responsible for the debts of the Cincinnati, Hamilton & Dayton and agrees to advance the necessary funds to rehabilitate the property. It is estimated that the Baltimore & Ohio will have to advance from \$35,000,000 to \$40,000,000.

## PROPOSED REORGANIZATION PLAN OF THE COLORADO MIDLAND RAILWAY CO.

The Colorado Midland Railway Co. operates the following mileage:

A. Line of road owned:	Miles.
Colorado Springs to New Castle, Colo.....	221.92
Arkansas Junction to Leadville, Colo.....	4.80
Basalt to Aspen, Colo.....	19.37
Cardiff to Spring Gulch, Colo.....	15.01
Total line owned.....	261.10
B. Lines jointly owned with Rio Grande Junction R. R.: Rifle Creek to end of Rio Grande Junction R. R.....	62.08
C. Trackage rights over Denver & Rio Grande and Santa Fe.....	14.46
Total mileage operated.....	337.64
Sidings owned.....	76.50

Gauge, standard.

On the application of Central Trust Co. of New York, acting at the request of the bondholders' protective committee, President George W. Vallery was appointed receiver on December 13, 1912.

The Colorado Midland Railway Co. was incorporated October 11, 1897, under the laws of Colorado as the successor of the Colorado Midland Railroad Co., sold under foreclosure September 8, 1897. The road is jointly controlled by the Colorado & Southern and the Denver & Rio Grande, each company owning one-half of the outstanding stock. Colorado & Southern is in turn controlled by Chicago, Burlington & Quincy.

In 1911 Blair & Co. refused to comply with the terms of a contract whereby they had agreed to purchase the Colorado Midland stock owned by the Colorado & Southern. The refusal was based on the ground that the Colorado & Southern was unable to give a clear title, the stock having been pledged by it to secure payment of bonds. In 1914 the Supreme Court, however, held that the Colorado & Southern could give a clear title to the stock of the Colorado Midland and permitted its sale. The reports at hand indicate that the Colorado & Southern has not disposed of its Colorado Midland stock.

The Colorado Midland and Denver & Rio Grande have jointly leased the lines of the Rio Grande Junction Railway, extending from Rifle Creek to Grand Junction, 62.08 miles, for 30 per cent of the gross earnings of each company over the road, with a minimum rental equal to the interest on the outstanding bonds. The payment of the bonds of the Rio Grande Junction, both as to principal and interest, is jointly and severally guaranteed by Colorado Midland and Denver & Rio Grande. The bonds thus guaranteed amounted to \$2,000,000. Excepting during the year 1914-15, the Rio Grande Junction's earnings have been adequate to pay interest.

The Rio Grande Junction has paid dividends as follows:

Year.	Dividends.	Surplus..
1911.....	\$100,000	\$95,183
1912.....	100,000	121,648
1913.....		213,540
1914.....		205,648
1915.....	300,000	<sup>1</sup> 120,686
1916.....	100,000	113,514

<sup>1</sup> Deficit.

The assets and liabilities of Colorado Midland are reported (Moody, 1917) as of June 30, 1916, as follows:

**Assets:**

Cost of road and equipment.....	\$17,980,190
Materials and supplies.....	164,378
Cash on hand.....	40,487
Current accounts.....	104,136
Other assets.....	6,273
Profit and loss.....	683,713
<b>Total.....</b>	<b>18,979,177</b>

**Liabilities:**

Capital stock.....	8,376,100
Bonded debt.....	9,469,000
Accrued liabilities.....	79,586
Accrued depreciation.....	160,146
Current liabilities.....	894,345
<b>Total.....</b>	<b>18,979,177</b>



The revenues and expenses of Colorado Midland are reported as follows:

Item.	1916	1915	1914	1913	1912	1911
Gross revenues.....	\$1,516,758	\$1,698,780	\$1,748,073	\$1,828,335	\$1,830,165	\$1,914,657
Operating expenses.....	1,441,149	1,541,176	1,729,612	1,657,828	1,554,965	1,667,375
Net operating revenues.....	75,609	157,604	18,461	170,507	275,200	247,282
Operating ratio..... per cent..	95.0	90.7	98.9	90.7	85.0	87.1
Other income.....	33,380	30,465	23,744	14,592	39,115	37,443
Total net income.....	108,989	188,069	42,205	185,099	314,315	284,725
Taxes accrued.....	96,862	109,710	108,000	95,477	91,200	91,800
Balance for charges.....	12,127	78,359	165,795	89,622	223,115	192,925
Fixed charges.....	77,393	89,569	74,889	282,439	474,537	460,641
Deficit.....	65,266	11,210	140,684	192,817	251,422	267,716

<sup>1</sup> Deficit.

Subsequent to the appointment of a receiver the bond interest has not been accrued.

The reorganization committee has submitted a plan (Commercial and Financial Chronicle, vol. 104, p. 1145, Mar. 24, 1917) for reorganizing Colorado Midland which apparently wipes out all of the \$3,421,300 common and \$4,954,800 preferred stock now outstanding and converts the \$9,532,000 first mortgage 4 per cent bonds into common stock.

The bondholders upon paying an amount in cash equal to 20 per cent of the bonds outstanding will receive 6 per cent cumulative preferred stock in the amount of \$1,906,400. The cash thus paid in will be used for the following purposes:

To pay taxes, rentals, and other claims requiring settlement in reorganization, immediate betterments, and improvements.....	\$1,089,384
As compensation for reorganization committee.....	20,000
To pay reorganization expenses.....	150,000
For working capital, syndicate commissions, reserves, contingencies, etc.....	647,016

Holders of certificates of deposit are entitled to subscribe for preferred stock equal to 20 per cent of the face value of their certificates of deposit, or in an amount not exceeding \$200 on each \$1,000 bond. In exchange they will receive 10 per cent new common stock offered in exchange for all deposited first-mortgage bonds, 20 per cent in new preferred, and 90 per cent in new common stock.

The new common stock will be distributed as follows:

To bondholders without payment.....	\$953,200
To bondholders making payment under plan.....	8,578,800
For reorganization purposes or treasury of new company.....	68,000

Total..... 9,600,000

Receiver Vallery in a statement of March 6, 1917, indorsing the reorganization plan says in part:

"The plan is in effect the payment of indebtedness prior to the bonds and, if consummated, will result in giving to the bondholders, who are its real owners, the control of the property. I believe the prospects for the future are good, and that with the owners in control and the fixed interest charges eliminated as per plan, the property under normal conditions and with competent management will make a much better showing than is possible under receivership."

Receiver Vallery is of the opinion that after the proposed improvements are installed the company's gross operating expenses should not exceed 75 per cent of the gross earnings. Taking the 1916 earnings, \$1,666,813 as a basis, this would "leave net earnings of about \$257,824 per annum after deducting taxes and rentals of tracks and other income charges, or more than twice the amount necessary for the payment of full 6 per cent dividends upon the \$1,910,000 new preferred stock soon to be issued."

The Colorado Midland Railroad Co., successor to the Colorado Midland Railway Co., took possession of the properties on June 1, 1917. The new company

begins its career without any indebtedness. As stated, the reorganization plan converted \$9,469,000 of funded debt into common stock.

On June 5, 1917, President A. E. Carlson was reported as saying that the new owners of the properties will within one year spend \$1,000,000 for improvements. The improvements include an 8-mile link connecting the Uintah Railroad at Mack, Colo., with the Grand River Valley Railroad at Fruita.

#### RECEIVERSHIP OF COLUMBUS & SOUTHERN RAILWAY.

Columbus & Southern Railway was incorporated July 26, 1902, under the laws of Ohio. It succeeded to the properties of Columbus, Wellston & Southern Railroad. The line of road extends from South Bloomington to Wyandotte, Ohio, 22.82 miles.

On October 19, 1914, Henry A. Middleton, of Columbus, Ohio, was appointed receiver. The application for a receiver was made by James C. Melvin, a creditor, who alleges the company owed him \$200,000, being a balance on \$500,000 of bonds and an additional sum of \$18,575 for advances.

The property was sold under foreclosure on February 28, 1916.

The company has reported revenues as follows:

1910-11	\$15,007
1911-12	15,677
1912-13	14,057
1913-14	10,812
1914-15	4,527

The operating expenses and taxes are reported as follows:

1910-11	\$16,765
1911-12	16,448
1912-13	18,178
1913-14	12,059
1914-15	5,772

The deficit before payment of interest is reported as follows:

1910-11	\$1,758
1911-12	771
1912-13	4,121
1913-14	1,247
1914-15	1,245

According to the general balance sheet published in Moody's Analyses of Railroad Investments, the company valued its road and equipment on June 30, 1915, at \$2,514,613.

It reported liabilities as follows:

Capital stock	\$2,000,000
Bonded debt	500,000
Current liabilities	16,058

It appears that this road suffered severely from the floods during 1913 and 1914.

#### RECEIVERSHIP OF GEORGIA & FLORIDA RAILWAY.

A casual examination of the financial statements of Georgia & Florida Railway convinces one that the opinions and assertions of the promoters of this company were erroneous and unwarranted. The present capitalization presents a hopeless situation. In 1916 the company reported operating revenues amounting to \$737,166, other income \$7,636, total \$744,802, whereas the fixed charges, including \$35,877 for taxes, amounted to \$611,093, or about 81 per cent of the total earnings. The operating expenses during 1915-16, however, absorbed 93.75 per cent of the operating revenues, leaving only \$46,049 to meet fixed charges amounting to \$611,093. The company's deficit for the year amounted to \$557,408, or \$1,597 per mile.

Since 1906, the year of the incorporation of the company, it has accumulated a deficit of \$2,416,439. Elsewhere in this report appear tables showing the revenues and expenses of the Georgia & Florida.

Georgia & Florida Railway was incorporated in 1906 under the laws of Georgia. President John Skelton Williams, in his 1908 report, says in substance:

"Early in 1906 attention was directed to the need of a new line from Augusta, Ga., southwesterly to northern Florida through a rich country, deficient in railways running north and south. A syndicate was formed to acquire the following roads:

	Miles.
Augusta & Florida Railway, Keysville to Midville, Ga. -----	29.9
Atlantic & Gulf Shore Line R. R., Midville to Swainsboro, Ga. -----	16.7
Millen & Southwestern R. R., Millen to Vidalia, Ga. -----	52.7
Ocala & Valdosta R. R., Hazlehurst to Broxton, Ga. -----	29.7
Douglas, Augusta & Gulf Ry., Barrows Bluff to Nashville, Ga. -----	55.6
Nashville & Sparks R. R., Nashville to Sparks, Ga. -----	11.6
Valdosta Southern Ry., Valdosta, Ga., to Madison, Fla. -----	27.2

"A through line from Augusta, Ga., to Madison, Fla., called for the construction of connecting links amounting to 117.8 miles. The above properties were acquired August 12, 1907, pursuant to a plan which called for the purchase of the above 7 lines of railway; the building of 120 miles of additional line; the regrading of 225 miles of existing road; the replacing of old rails with 70-pound rails; the building of new depots, water tanks, coal chutes, telegraph lines, and the purchase of new equipment."

Through service from Augusta, Ga., to Madison, Fla., was inaugurated July 1, 1910. In November, 1910, the company acquired the 18 miles of road owned by the Sparks Western Railway.

Georgia & Florida Terminal Co. was organized to acquire terminal properties at Augusta and Valdosta, Ga. All the stock of the terminal company is owned by the Georgia & Florida, which also has guaranteed the payment of \$200,000 face value of bonds of the terminal company.

Early in 1912 the Georgia & Florida issued \$2,000,000 of 5 per cent 20-year income bonds, due February 1, 1932. These bonds were underwritten by Mid-dendorf Williams & Co. at 52 and by it offered to the stockholders of the railway at the same price. The proceeds were used, according to the company's reports, to pay floating indebtedness incurred to complete the road, redeem equipment obligations, and provide for working capital.

In November, 1912, Shifferd-Smith, Daniel & Co., of Philadelphia, offered in London, through Parr's Bank, at 86, \$1,000,000 of first mortgage fives. The prospectus issued in aid of selling these bonds recited "that \$5,595,000 of the first mortgage bonds were outstanding out of a total of \$12,000,000 authorized and that there was outstanding \$2,000,000 of income bonds, \$3,500,000 preferred stock, \$5,250,000 common stock; that the Georgia & Florida Railway, now fully completed and in operation, is an amalgamation and reorganization of a number of smaller lines to connect and extend which about 125 miles additional lines have been built; that the company owns 332 miles; that it operates under lease 30 miles; that its lines traverse a productive and rapidly growing country; that the road does not parallel any other line for any great extent, but crosses at right angles practically every line in Georgia, including Seaboard Air Line, Atlantic Coast Line, Southern Railway, Central of Georgia Railway, Georgia Southern & Florida; that the company has traffic agreements with all of these; that its funded indebtedness amounts to but \$17,900 per mile; and that if an operating ratio of 66½ per cent is assumed the road to meet its fixed charges needs to earn but \$2,700 per mile gross.

Experience, however, shows that the company at no time earned \$2,700 per mile. Its reports show earnings per mile as follows: 1908, \$1,408; 1909, \$1,775; 1910, \$1,909; 1911, \$2,123; 1912, \$2,274; 1913, \$2,365; 1914, \$2,432; 1915, \$1,949; and in 1916, \$2,112. Only a part of the \$1,000,000 of bonds were sold.

In a letter of October 11, 1913, President R. Lancaster (elected in 1913) says: "After conference with the holders of large amounts of the first mortgage 5 per cent bonds, it has been determined that provision should be made to fund or extend the payment of interest for three years upon the first mortgage bonds. This suggestion has been brought about by low earnings caused by floods and damage to cotton and other crops which could not have been foreseen. The executive committee recommends the deposit of coupons maturing November 1, 1913, to May 1, 1916, both inclusive, in exchange for five-year 5 per cent notes dated November 1, 1913, due November 1, 1918, secured by deposit of coupons. By thus deferring payment of interest it is believed sufficient time will be given to develop the property and demonstrate its real earning capacity. The property is in excellent physical condition and under normal crop conditions is capable of showing good earnings. Unless the bondholders cooperate in this



effort it will be impractical to continue the development of the property without great loss to the security holders."

Subsequently the plan was so modified as to permit the deposit of coupons at the time of their maturity rather than all of them at the time the initial coupon was deposited. This change was made to meet the objection of the Baltimore Trust Co. While more than 82 per cent of the bondholders have deposited their coupons under the plan, it was found necessary to request the appointment of a receiver.

The petition for a receiver was filed by Baltimore Trust Co., and on March 27, 1915, Judge Hammond, of the superior court at Augusta, Ga., appointed the following receivers: Col. J. M. Wilkinson, Valdosta, Ga.; Harry R. Warfield, vice president of the Baltimore Trust Co.; and W. R. Sullivan, of Redmond & Co., of New York. On March 2, 1916, Langbourne M. Williams, of John L. Williams & Sons, Richmond, Va., was appointed receiver to succeed Col. J. M. Wilkinson, deceased.

Georgia & Florida Railway, on June 30, 1916, operated the following mileage:  
Lines owned:

	Miles.
Keysville, Ga., to Madison, Fla.....	223.7
Millen division, Millen to Pendleton, Ga.....	43.6
Douglas Junction to Barrows Bluff, Ga.....	17.1
Nashville to Kingwood, Ga.....	31.9
Sparks to Adel, Ga.....	2.2
Total owned.....	318.5

Trackage:

Central of Georgia Ry., at Millen, Ga.....	.4
A. B. & A. Ry., Kingwood, Ga., to Moultrie.....	2.2
Augusta Southern Ry., Keysville to Augusta, Ga.....	25.9
Total trackage.....	28.5

Mileage under contract with Georgia & Florida Terminal, at Valdosta, Ga.....

1.1

Grand total operated..... 348.10

Sidings owned..... 43.41

Gauge, standard.

On June 30, 1916, the company was capitalized as follows:

Common stock.....	\$5,250,000
Preferred stock.....	3,500,000
Funded debt.....	7,822,000
First mortgage bonds.....	\$5,610,000
Income bonds.....	2,000,000
Millen & Southwestern bonds.....	212,000
Equipment trust notes.....	38,113
Total capitalization.....	16,610,113
Capitalization per mile owned.....	52,153
Capitalization per mile operated.....	47,593

While this capitalization on its face may not appear excessive, yet when considered in conjunction with the road's earnings it becomes very apparent that the fixed charges are too heavy a burden for this system to carry.

While no reorganization plan has been prepared, it is very obvious that such a plan must make provision for a large reduction of the fixed charges of this company.

Moody, in his Analyses of Railroad Investments, reports revenues and expenses, passenger and freight density, and other operating statistics of the Georgia & Florida, as shown in the tables following:

*Operating statistics per mile of road operated.*

[Data from Moody's Analyses of Railroad Investments.]

Year ended June 30—	Miles operated.	Gross revenue.	Maintenance.			All other operating expenses.	Net operating revenues.	Total net income.
			Way.	Equip-ment.	Total.			
1908.....	227	\$1,408	\$223	\$231	\$454	\$732	\$222	\$239
1909.....	247	1,775	245	257	502	841	432	510
1910.....	273	1,909	254	300	554	1,150	415	485
1911.....	332	2,123	256	287	543	1,176	404	727
1912.....	352	2,274	398	328	726	1,331	217	221
1913.....	352	2,365	435	351	786	1,298	281	520
1914.....	350	2,432	446	403	849	1,257	326	347
1915.....	350	1,949	449	436	885	1,135	171	162
1916.....	349	2,112	509	415	924	1,056	132	154
9-year average.....	315	2,039	357	311	668	1,108	263	349

Year ended June 30	Taxes accrued.	Balance for charges.	Fixed charges.	Margin of safety.	Surplus over charges.
				Per cent.	
1908.....	\$51	\$188	\$63	66	\$125
1909.....	58	452	370	18	82
1910.....	65	420	94	78	326
1911.....	81	646	551	15	95
1912.....	111	110	1,127		1,017
1913.....	113	407	1,553		1,146
1914.....	121	226	1,544		1,318
1915.....	119	181	1,638		1,819
1916.....	103	51	1,648		1,597
9-year average.....	91	258	954		1,696

<sup>1</sup> Deficit.*Physical factors—Mileage, equipment, and operation.*

[Data from Moody's Analyses of Railroad Investments.]

Year ended June 30—	Average miles operated.	Locomotives owned.	Passenger cars owned.	Freight and company cars owned.	Freight to all traffic.	Passenger density.	Freight density.
					Per cent.		
1908.....	227	17	16	166	63	15,146	22,712
1909.....	247	18	21	646	66	16,772	32,866
1910.....	273	28	24	609	61	23,975	51,354
1911.....	332	29	33	609	59	30,050	73,993
1912.....	352	37	30	596	64	26,470	99,830
1913.....	352	35	30	568	65	28,142	116,787
1914.....	350	35	29	644	64	27,513	101,097
1915.....	350	30	27	589	69	19,682	91,564
1916.....	349	30	27	575	70	19,537	103,865
9-year average.....	315	29	27	556	65	22,921	77,115

Year ended June 30—	Average freight-train load.	Train-mile earnings.	Average rate per passenger per mile.	Average rate per ton per mile.
	Tons.		Cents.	Cents.
1908.....		\$0.90	2.84	1.87
1909.....		1.01	2.88	1.60
1910.....		1.01	2.75	2.46
1911.....		1.00	2.55	1.70
1912.....	116	1.30	2.33	1.46
1913.....	155	1.19	2.51	1.32
1914.....	87	0.21	2.61	1.75
1915.....	97	1.12	2.48	1.77
1916.....	97	1.18	2.68	1.76
9-year average.....		1.07	2.66	2.02

NOTE.—Difficulty of road is lack of traffic rather than low rates.

## RECEIVERSHIP OF INTERNATIONAL &amp; GREAT NORTHERN RAILWAY CO.

On June 30, 1916, International & Great Northern Railway Co., hereinafter referred to as the International, operated the following mileage:

## Lines owned:

Longview Junction (El Paso line of Texas & Pacific) to Laredo, Tex.	Miles.
-----	493.9
Palestine to Houston, Tex.	150.7
Spring to Texas & Pacific connection, Fort Worth, Tex.	271.8
Mineola branch, Troupe to Mineola, Tex.	44.4
Columbia branch, Houston to East Columbia, Tex.	50.0
Madisonville branch, Navasota branch to Madisonville, Tex.	44.7
Other branches and spurs	14.6
Houston belt terminals, Houston to Buffalo Bayou, Tex.	10.2
Georgetown R. R., Round Rock to Georgetown, Tex.	9.7
Henderson & Overton R. R., Overton to Henderson, Tex.	16.0
Total miles owned	1,106.0

## Trackage rights:

Galveston, Houston & Henderson R. R., Houston to Galveston, Tex.	49.4
St. Louis Southwestern Ry. of Texas, Waco terminals	3.4
Texas & Pacific Ry., Fort Worth terminals	.7
Total trackage rights	53.5

Total miles operated 1,159.5

The International is a Gould property connecting Houston and Laredo, Tex., with the lines of the Texas & Pacific at Fort Worth, Mineola, and Longview, Tex. Galveston, Tex., is reached by means of trackage rights over lines of Galveston, Houston & Henderson Railroad Co.

The International has been the victim of short-term financing, floods, and the Mexican revolution. The officers of the company also contend that the attitude of the Texas Railroad Commission has hampered them.

To fully comprehend the difficulties of the International (organized Aug. 10, 1911) it is necessary to refer to its predecessor in interest. International & Great Northern Railroad Co., hereinafter referred to as the Old International.

The properties of Old International were sold at foreclosure sale to the International in August, 1911.

The capitalization of Old International at the date of the sale of its properties is reported as follows:

First-mortgage bonds, due November, 1919	\$11,291,000
Colorado Bridge first-mortgage bonds, due May 1, 1920	198,000
San Antonio station loan	42,000
Equipment obligations	392,650
Receiver's equipment notes	276,000
Second-mortgage bonds in default	12,907,644
Principal	\$2,961,000
Interest to May 16, 1911	2,516,644
Third-mortgage bonds	3,903,056
Principal	2,961,000
Interest	937,000
Scrap	5,052
Judgments and floating debt	6,835,063
Floating debt	5,513,600
Other debt	1,321,463
Capital stock	9,755,000
Total capitalization of Old International	45,600,413
Capitalization of International (new company)	35,457,000
First-mortgage bonds (old issue)	11,291,000
Colorado Bridge bonds (old issue)	198,000
Equipment obligations (old issue)	276,000
First and refunding bonds (new issue)	13,750,000
San Antonio station loan (old issue)	42,000
Preferred stock 5 per cent noncumulative (new issue)	3,400,000
Common stock (new issue)	6,500,000



The reorganization committee estimated the cash requirements at \$15,340,000, to pay (a) \$12,907,644 principal and interest second-mortgage bonds, (b) \$392,650 equipment certificates, (c) \$1,321,463 audited vouchers and claims, and (d) \$718,243 reorganization expenses, provide for working capital, etc.

The \$15,340,000 cash was raised as follows: (a) \$11,000,000 through sale of 3-year 5 per cent notes, the payment of which was secured by \$13,750,000 first and refunding bonds, of which \$12,150,000 was deposited by company and \$1,600,000 by syndicate; (b) \$4340,000 furnished by syndicate in exchange for (1) \$1,600,000 first and refunding bonds, (2) \$3,400,000 preferred stock, and (3) \$2,500,000 common stock.

As payments were made on the \$11,000,000 notes, the \$1,600,000 first and refunding bonds delivered to the company were to be exchanged for preferred stock.

Common stock in the amount of \$4,000,000 was to be exchanged for the third mortgage bonds, and interest due thereon; total, \$3,903,056.

An order of the Texas Railroad Commission, dated September 27, 1911 (Commercial and Financial Chronicle, vol. 93, p. 1105), approving an issue of security of \$30,365,047, places a value of \$30,365,047 upon the property, rights, and franchises of the road. The valuation is "subject to such additions, if any, as shall result from the examination now being made by the commission of certain real estate."

The reorganization plan called for a total valuation of at least \$35,457,000. The valuation fixed by the Texas commission prevented the issue of \$6,500,000 of common stock as per reorganization plan. To protect the equity of the third mortgage bondholders of Old International, the International and Great Northern Holding Corporation was organized under the laws of Virginia, with an authorized stock issue of \$5,500,000. A statement appearing in the Commercial and Financial Chronicle (vol. 93, p. 1386), reads in part as follows:

"Holding company to be used in a way so as to preserve the equity of the third-mortgage bondholders of that company in case the Texas commission does not allow more than \$30,365,047. Reorganization plan calls for a value of \$35,457,000. Unless commission raises value, the company will be prevented to issue \$4,000,000 common stock in exchange for third-mortgage bonds. Holding company proposes to buy entire common stock authorized by commission, and then issue participation certificates of beneficial interest to the full value of the common stock called for by reorganization plan. The value fixed by Texas commission allows the issue of but \$1,408,000 common stock.

"Until the commission raises the value to that desired by the reorganization committee, the holding company, it is stated, will serve the useful purpose of preserving the third-mortgage bondholders' equity in a property whose real value is variously estimated at from \$5,000,000 to \$10,000,000 above that fixed by the Texas commission."

The \$11,000,000 three-year 5 per cent notes due August 1, 1914, International, were underwritten by Redmond & Co., J. & W. Seligman & Co., of New York, and Middendorf, Williams & Co., of Baltimore, and sold by them at 99½, or on a 5½ per cent basis.

Under date of July 13, 1912 (Commercial and Financial Chronicle, vol. 95, p. 176) the company issued a statement reading in part as follows:

"When Thomas J. Freeman was appointed receiver in 1908 he predicted that its business could be increased at the rate of 10 per cent yearly. In four years ending June 30, 1912, gross revenues increased 47.7 per cent, or nearly 11 per cent per annum. In the fiscal year ending June 30, 1908, the total revenues were \$6,922,000. Furthermore, the company in the current year enters upon what promises to be the greatest traffic year ever known in the Southwest. The cotton crop, which last year was heavier than normal, is expected to be 1,500,000 bales heavier in Texas, Oklahoma, and Arkansas than last year. The fruit crop will be heavy.

"Since the end of receivership in September last the company has given a good account of itself. In the seven and one-half months from September 6, 1911, to April 30, 1912, the property earned \$860,000 in excess of charges. This is 5 per cent on preferred and 20 per cent on participation certificates.

"When the company was reorganized the valuation allowed by the Texas Railroad Commission permitted of the issue of only \$1,422,000 common stock. Inasmuch as the \$6,500,000 equity of the third-mortgage bondholders necessarily had to be represented by common stock, reorganizers surmounted the

difficulty by organizing a holding company, which took over the entire \$1,422,000 common stock as well as \$5,078,000 interim certificates representing additional equity. The holding company, on the other hand, issued participation certificates to the amount of \$6,500,000 to holders of third-mortgage bonds, whose claims under the reorganization plan were to be discharged by exchange therefor of common stock in the new company."

While apparently the Gould interests controlled the International as well as the Missouri Pacific, the latter in 1912 took steps to obtain a direct control of the former.

The Commercial and Financial Chronicle (vol. 95, p. 1331) quotes the Missouri Pacific bankers as follows:

"President Bush has informed his board of directors that he believes that the International & Great Northern should become an integral part of the Missouri Pacific-Iron Mountain system, and under his advice the board of directors is negotiating for an option of International & Great Northern preferred and common stock holding of the J. Gould estate and Frank J. Gould. The Missouri Pacific board has appointed a special committee, consisting of J. G. Metcalfe, E. D. Adams, and Edgar L. Marston, to make an investigation into the physical and financial condition of the International & Great Northern property."

(Data at hand does not show that Missouri Pacific ever obtained direct control.)

The only dividend paid by the International was \$136,000 on preferred stock in 1913.

In its issue of July 11, 1914, the Commercial and Financial Chronicle says:

"An announcement is expected shortly of a plan providing for the extension of \$11,000,000 three-year 5 per cent notes maturing August 1. Representatives of the three banking houses which brought out this issue have this matter under consideration. The earnings have been poor and it is expected that deposit of the notes will be requested."

In its issue of August 1, 1914, the Commercial and Financial Chronicle (vol. 99, p. 342) reports that a majority of the note holders had approved the plan for a renewal for two and one-half years, at 6 per cent, the \$11,000,000 three-year 5 per cent notes which matured on August 1, 1914. Frederick Strauss, of J. & W. Seligman & Co., on July 28, 1914, issued a statement which reads in part as follows:

"An understanding has been arrived at between the trustees of the estate of J. Gould, the owners of a majority interest in the stock of the International & Great Northern Railroad whereby an option on advantageous terms has been given to the committee representing a majority of the note holders to purchase 51 per cent of the preferred stock of the International & Great Northern Railroad Co. and 51 per cent of the stock of the International & Great Northern Corporation which owns all of the common stock of the railroad company. The exercise of the option is conditioned upon the extension of all of the notes for a period of two and one-half years at 6 per cent, the notes to be repaid at 101 at maturity. A part of the arrangement is a guaranty of interest equivalent to \$660,000 for benefit of the note holders over a period of two and one-half years. It is thought that this guaranty will not be needed, but it has been created to guard against any shortage in earnings during the period of the extended notes."

In its issue of August 15, 1914, the Commercial and Financial Chronicle (vol. 99, p. 467) reports:

"Judge Burns, of the United States court at Houston, Tex., on August 11, appointed James A. Baker, of Houston, and Cecil A. Lyon, of Sherman, as receivers of the property of the International & Great Northern Railroad Co., at the request of the protective committee which recently published a plan for the extension of the \$11,000,000 three-year 5 per cent notes.

"A statement by President James J. Freeman said that it was impossible to meet either interest or principal of the notes due August 1, and as there was no market for the bonds a default resulted. The executors of the J. Gould estate consented to the plan of extending the notes for two and one-half years at 6 per cent, but the unsettled financial situation brought about by the European war and a less favorable outlook for the cotton crop along the line caused the plan to fall through.

"Alexander J. Hemphill, chairman of the note-holders committee, announced that unforeseen circumstances have brought about a receivership of the property and have made the plan impracticable of execution at the present time."

In November, 1914, the Guarantee Trust Co. reported that 90 per cent of the notes had been deposited with the note-holders' protective committee.

No reorganization plan for the International has been prepared to date (Apr. 11, 1917).

The assets and liabilities of the International & Great Northern as of June 30, 1916, are reported (Moody, 1917, p. 450) as follows:

## Assets:

Road and equipment.....	\$39,083,976
Sinking funds.....	16,149
Special deposits.....	122,651
Miscellaneous physical property.....	7,409
Other investments.....	4,400
Cash.....	205,905
Traffic balances.....	156,989
Agents and conductors.....	151,435
Miscellaneous accounts receivable.....	486,306
Materials and supplies.....	927,539
Traffic balances.....	156,989
Securities pledged as collateral.....	12,150,000
Other unadjusted debits.....	2,395,950
Profit and loss.....	1,016,480
<b>Total.....</b>	<b>56,758,802</b>

## Liabilities:

Preferred stock.....	3,400,000
Common stock.....	1,422,000
Bonded debt.....	26,347,000
Equipment trusts.....	1,583,000
Long-term notes.....	11,359
Receivers' certificates.....	1,400,000
Traffic balances.....	402,996
Audited vouchers and pay rolls.....	1,977,380
Miscellaneous accounts payable.....	9,333
Notes matured unpaid.....	11,039,358
Matured interest unpaid.....	1,537,177
Interest accrued.....	172,099
Rents accrued.....	13,262
Other current liabilities.....	80,609
Receivers' general account.....	1,634,937
Conditional interim certificates.....	5,078,000
Other unadjusted credits.....	513,292
Preferred dividends reserved.....	80,000
<b>Total.....</b>	<b>56,758,802</b>



Moody to his Manual of Railroad and Corporation Securities (1917 ed., p. 450) reports the revenues and expenses of the International & Great Northern as follows:

	1915-16 <sup>1</sup>	1914-15 <sup>1</sup>	1913-14	1912-13	1911-12 <sup>2</sup>	1910-11
<b>EARNINGS.</b>						
Passenger.....	\$1,847,233	\$1,780,209	\$2,274,687	\$2,464,156	\$2,336,246	\$2,132,784
Freight.....	6,869,511	6,674,082	7,024,295	8,074,686	7,522,109	6,402,506
Mail and express.....	451,253	424,086	469,687	507,588	438,573	415,474
Miscellaneous.....	249,294	205,249	194,738	177,994	61,845	177,070
Total.....	9,420,291	9,083,626	9,963,407	11,234,424	10,358,773	9,127,834
<b>EXPENSES.</b>						
Maintenance of way and structures.....	1,450,427	1,539,783	1,633,054	1,472,197	1,258,299	1,434,907
Maintenance of equipment.....	1,623,969	1,585,930	1,116,873	1,557,565	1,340,619	1,397,196
Traffic expenses.....	254,063	269,869	320,996	319,663	279,650	235,476
Transportation expenses.....	3,616,803	4,079,376	4,558,461	4,796,525	4,296,479	3,888,567
General and miscellaneous expenses.....	394,262	396,491	433,083	381,529	373,727	271,782
Total.....	7,339,224	7,871,449	8,062,467	8,527,479	7,548,774	7,227,928
Net earnings.....	2,081,067	1,212,177	1,900,940	2,733,085	2,809,999	1,899,906
Taxes.....	<sup>3</sup> 420,659	405,677	339,841	340,000	309,000	254,344
Operating income.....	1,660,408	806,500	1,561,099	2,393,085	2,500,999	1,645,562
Other income.....	531,142	461,241	460,076	60,988	341,286	43,412
Total net income.....	2,191,550	1,267,741	2,021,175	2,454,073	2,842,285	1,688,974
<b>DEDUCTIONS.</b>						
Hire of equipment, etc.....	1,029,469	1,003,414	1,144,140	751,418	540,339	424,785
Interest on bonds.....	813,612	812,482	1,307,730	1,261,717	1,252,353	1,741,028
Other interest.....	638,368	540,227	13,974	11,650	115,353	69,419
Other payments.....	3,171	3,015	4,226	105,770	58,100	29,291
Total charges.....	2,481,620	2,389,138	2,470,070	2,130,555	1,966,145	2,264,523
Balance for year.....	<sup>4</sup> 293,070	<sup>1</sup> 1,121,397	<sup>1</sup> 448,895	<sup>1</sup> 323,518	<sup>1</sup> 676,140	<sup>4</sup> 575,549

<sup>1</sup> Includes receivers' and railway accounts consolidated.

<sup>2</sup> Includes operations of the receivership for 2½ months ended Sept. 15, 1911.

<sup>3</sup> Includes \$1,982 uncollectible railway revenues.

<sup>4</sup> Deficit.

<sup>5</sup> Surplus.

The revenues and expenses per mile of road operated by the International are shown in the following table:

*International & Great Northern Ry. Co., 1911-1916, and International & Great Northern R. R. Co., 1908-1910.*

[Data from Moody's Analyses of Railroad Investments.]

Year ended June 30	Average miles operated.	Gross earnings per mile.	Operating expenses per mile.		Net operating revenues per mile.	Total net income per mile.	Taxes accrued per mile.	Balance for charges per mile.
			Maintenance.	All others.				
1908.....	1,160	\$5,967	\$2,412	\$3,242	\$313	\$334	\$240	\$94
1909.....	1,160	6,981	2,417	3,270	1,294	1,333	208	1,125
1910.....	1,160	7,388	2,437	3,643	1,308	1,352	218	1,134
1911.....	1,160	7,869	2,441	3,792	1,636	1,675	219	1,456
1912.....	1,160	7,364	1,760	3,553	2,051	2,334	218	2,116
1913.....	1,160	9,711	2,613	4,741	2,359	2,410	293	2,117
1914.....	1,160	8,570	2,365	4,550	1,655	1,700	293	1,407
1915.....	1,160	7,831	2,694	4,091	1,046	1,139	345	794
1916.....	1,160	8,119	2,650	3,677	1,792	1,889	361	1,528
9-year average..	1,160	7,756	2,421	3,840	1,495	1,574	266	1,308

*International & Great Northern Ry. Co., 1911-1916, and International & Great Northern R. R. Co., 1908-1910—Continued.*

Year ended June 30 --	Fixed charges per mile.	Surplus over-charges per mile.	Dividends paid per mile.	Passenger density.	Freight density.	Average rate per passenger per mile.	Average rate per ton per mile.
			<i>Per cent.</i>			<i>Cents.</i>	<i>Cents.</i>
1908.....	\$1,980	<sup>1</sup> \$1,886	.....	65,002	302,421	2.20	1.05
1909.....	2,045	<sup>1</sup> 920	.....	65,711	435,840	2.25	1.16
1910.....	1,907	<sup>1</sup> 773	.....	72,534	463,809	2.30	1.13
1911.....	1,925	<sup>1</sup> 471	.....	79,860	486,408	2.30	1.14
1912.....	1,707	409	.....	63,823	425,986	2.40	1.26
1913.....	1,838	279	14	87,140	599,750	2.17	1.16
1914.....	1,794	<sup>1</sup> 387	.....	77,687	500,930	2.49	1.21
1915.....	1,761	<sup>1</sup> 967	.....	61,072	549,271	2.48	1.05
1916.....	1,781	<sup>1</sup> 253	.....	64,636	586,351	2.43	1.01
9-year average.....	1,860	<sup>1</sup> 552	.....	70,829	483,425	2.34	1.13

<sup>1</sup> Deficit.

RECEIVERSHIP OF MACON & BIRMINGHAM RAILWAY.

Macon & Birmingham Railway was incorporated May 27, 1896, under the laws of Georgia as a successor to the Macon & Birmingham Railroad Co. The properties of the railroad company were sold at foreclosure in 1896 to Edwards & Parsons, of Boston, for \$200,000. The purchasers assumed the payment of \$169,000 of lease warrants.

The projected line of this railway company extends from Macon, Ga., to Birmingham, Ala., a distance of 230 miles. At the present time the road is completed from Sofkee to La Grange, Ga., a distance of 96.87 miles.

Upon the application of the Old Colony Trust Co., of Boston, trustee of the first mortgage, S. F. Parrott, vice president, was appointed receiver of the company February 1, 1908. In September, 1910, J. B. Munson was appointed receiver to succeed S. F. Parrott. In 1915 the receiver withdrew the steam trains and placed in operation an electric passenger train service.

Macon & Birmingham Railway has an authorized bond issue of \$500,000. Its bonds are dated July 1, 1896, and mature July 1, 1946. They bear interest at the rate of 5 per cent per annum. Moody, in his Manual of Railroad and Corporation Securities, reports that no interest has even been paid on these bonds. The failure to pay interest was the immediate cause of the appointment of a receiver.

In addition to the bonded debt of \$500,000 receiver's certificates in the amount of \$50,000 have been issued up to June 30, 1916, and pledged to secure various bank loans.

Assets and liabilities as of June 30, 1916, are reported as follows:

Assets:

Road and equipment.....	\$1,023,412
Materials and supplies.....	9,097
Cash.....	12,326
Current accounts.....	5,599
Other assets.....	3
Preferred debit item.....	69,057
Profit and loss.....	949,022

Total assets..... 2,068,515

Liabilities:

Capital stock.....	500,000
Bonded debt.....	500,000
Current liabilities.....	152,567
Accrued liabilities.....	644,528
Other liabilities.....	186,538
Preferred credit item.....	66,572
Appropriated surplus.....	18,310

Total liabilities..... 2,068,515

The receiver's balance sheet as of June 30, 1916, shows the following assets and liabilities:

## Assets:

Road and equipment.....	\$110,343
Traffic and car-service balances.....	2,486
Agents and conductors.....	557
Materials and supplies.....	9,097
Cash.....	12,326
Miscellaneous accounts receivable.....	2,255
Other current assets.....	304
Other unadjusted debits.....	3,136
Receiver's certificates.....	50,000
Profit and loss.....	109,262

Total assets..... 299,766

## Liabilities:

Receiver's certificates.....	50,000
Loans and bills payable.....	111,981
Traffic and car service balances.....	5,204
Audited accounts and wages payable.....	35,167
Miscellaneous accounts payable.....	215
Unmatured interest accrued.....	502
Tax liability.....	3,216
Accrued depreciation of equipment.....	8,600
Other unadjusted credits.....	66,571
Additions to properties through income.....	18,310

Total liabilities..... 299,766

A glance at the liabilities of Macon and Birmingham in connection with the earning statement given below is sufficient to convince one that the capitalization of this company presents a hopeless situation. In 1916, to meet interest on an indebtedness in excess of \$1,500,000, the company had available but \$92,684. In 1915 the company experienced an actual operating deficit to the extent of \$34,397.

Moody, in his *Analyses of Railroad Investments*, reports the revenues and expenses of Macon & Birmingham as follows:

Item.	1916	1915	1914	1913	1912	1911
Gross revenues.....	\$148,451	\$128,605	\$156,297	\$155,889	\$165,172	\$155,118
Operating expenses.....	132,705	163,687	134,052	145,759	126,628	137,488
Net operating revenues.....	15,746	135,082	22,245	10,130	38,544	17,630
Other income.....	979	685	497	739	570	731
Total net income.....	16,725	34,397	22,742	10,869	39,114	18,361
Taxes.....	7,041	6,782	8,152	8,083	7,544	7,079
Fixed charges.....	49,392	51,484	50,775	51,686	49,901	47,664
Deficit.....	39,708	92,663	36,185	48,900	18,331	36,383

1 Deficit.

Moody, in his *Analyses of Railroad Investments*, does not report the amount of traffic handled by Macon & Birmingham.

Marietta, Columbus & Cleveland Railroad was incorporated in Ohio October 31, 1900, as successor to Toledo & Ohio Central Extension Railroad, sold under foreclosure October 15, 1900. Receiver appointed in 1908, but was discharged in September, 1909, the company resuming possession of the property.

Line of road—Moores Junction to Palos, Ohio, 41.09 miles, branch 4.49 miles—total owned, 45.57.

On July 10, 1914, D. B. Torpy, a director of the company, was appointed receiver on application of the Columbia Trust Co., of New York, trustee of the first mortgage 40-year gold 5's on which no interest has been paid.

Moody, in his 1917 Edition of *Railroad and Corporation Securities*, page 1647, reports, property of this company sold at foreclosure sale on July 18, 1916, for \$100,000. Since the sale the road has been operated privately and not as a common carrier.



The company's balance sheets and income accounts for 1911 to 1916, both inclusive, are published in Moody's Analyses of Investments of Steam Railroads, 1917 edition, page 968. The revenues and expenses of the company are reported as follows:

*Revenues and expenses.*

Item.	1916	1915	1914	1913	1912	1911
Gross revenue.....	\$99,899	\$105,519	\$105,043	\$109,271	\$84,720	\$75,308
Operating expenses.....	82,619	80,554	91,928	84,716	89,538	103,433
Net operating revenues.....	17,280	24,965	13,115	24,525	14,818	128,125
Other income.....	225	233	225	228	193	348
Total net income.....	17,505	25,198	13,340	24,753	14,625	127,777
Taxes.....	6,374	5,747	7,248	5,985	5,791	4,132
Fixed charges.....	27,252	34,996	30,956	34,096	20,670	17,066
Total fixed charges.....	33,626	40,743	38,104	40,081	26,461	21,198
Deficit.....	16,123	15,545	24,764	15,328	31,086	48,975

‡ Deficit.

COMPARATIVE BALANCE SHEET.

ASSETS.						
Property investment.....	\$514,838	\$517,583	\$518,147	\$514,178	\$514,806	\$507,808
Working assets.....	32,370	27,027	20,889	34,872	32,203	37,340
Deficit.....	237,916	221,977	205,220	166,578	147,522	114,335
Total assets.....	785,124	766,587	744,256	715,628	694,631	659,003
LIABILITIES.						
Capital stock.....	250,000	250,000	250,000	250,000	250,000	250,000
Funded debt.....	260,000	255,000	250,000	250,000	250,000	250,000
Working liabilities.....	268,583	257,520	239,340	208,053	189,461	156,267
Accrued liabilities not due.....	6,541	4,067	4,916	7,575	5,170	2,726
Total liabilities.....	785,124	766,587	744,256	715,628	694,631	659,003

RECEIVERSHIP OF MISSOURI, KANSAS & TEXAS RAILWAY CO.

Injudicious acquisition of new lines by means of short-term financing seem to have brought disaster to the Missouri, Kansas & Texas. On May 1, 1916, \$19,000,000 two-year 5 per cent notes fell due. The company's efforts to extend the payment of the notes one year proved unsuccessful. Several note holders brought suit against the company with the result that on September 27, 1915, Charles E. Schall, president, was appointed receiver. The board of directors gave out a statement that the receivership was due to the apathy of the railway investors, the heavy loss in the Galveston storm, and continued floods in the Southwest. These, however, were the immediate rather than the real causes of the difficulties of this railway system.

As usual bankers have been called upon to draft reorganization plans. Preliminary to the preparation of such plans, Halkarten & Co. and J. & W. Seligman & Co. asked Coverdale and Colpitt, engineers, to report on the condition of the property. Speyer & Co. engaged J. W. Kendrick for similar purposes.

The location of the lines of the Missouri, Kansas & Texas is shown by the map attached to the following page.

Coverdale and Colpitts, on October 16, 1916, reported that the company, within two years, must expend \$26,636,000, of which \$17,000,000 was for rehabilitation purposes, and \$9,636,000 for new working capital and other purposes, exclusive of payment of bills payable, defaulted interest, and expenses of reorganization.

J. W. Kendrick reported that within the next eight years the company will have to expend \$64,764,750 to rehabilitate the properties and put the road in a first-class operating condition. (Railway Age Gazette, Mar. 2, 1917.) Of the \$64,764,750, the sum of \$10,000,000 is apparently chargeable to operating expenses. His estimated expenditures make no provisions for the payment of the

\$19,000,000 of overdue notes nor for the payment of reorganization expenses. The chief items of the rehabilitation and improvement budget, as reported by J. W. Kendrick, are as follows:

Standardization drainage and protection of roadbed	\$1,265,000
Rail replacement	4,535,000
Ballast	4,085,000
Bridges	962,000
Replacing wooden trestles and culverts	1,481,000
Yard, industry, and passing tracks	2,060,000
Water stations	547,000
Fuel stations	195,000
Buildings, scales, crossings, assessments	1,786,000
Fencing and cattle guards	350,000
Shops, roundhouses, and machinery	2,745,000
Signals, telegraph, telephone, etc	2,193,000
Track motor cars	70,000
Rock crushers	95,000
Grade revisions, new projects, and extensions	14,075,000
Unanticipated	2,186,800
Equipment	26,133,750
<b>Total</b>	<b>64,764,550</b>

The annual savings in 1920 because of the improvements are estimated at \$1,420,000, the ultimate annual savings are estimated at \$4,544,000, consisting of the following items:

Loss and damage, freight	\$190,000
Freight handling	41,000
Handling package cars	25,000
Personal-injury claims	337,000
Transportation	285,000
General office organization	100,000
Motive power	450,000
Freight equipment:	
Bills against foreign roads	242,000
Maintenance	576,000
Passenger-car repairs	95,000
Crossties	650,000
Stationery	10,000
Purchase and stores	541,000
Fuel	500,000
Track motor cars	70,000
Grade revisions	432,000
<b>Total ultimate estimated annual savings</b>	<b>4,544,000</b>

On the subject of construction and maintenance Kendrick says:

"Built originally as a granger line, with grades conforming as nearly as might be to the general surface of the territory traversed, with rails of light sections and odd weights, with narrow banks and cuts, many of the latter wet and undrained, with bridges much too light for modern requirements, and no engine terminals worthy of the name south of and few north of the Red River (the northern boundary of Texas); provided with light engines, most of them of antiquated design, and some of them of better design, but still light; guided by previous administrations which utterly failed to recognize the coming changes in transportation methods; handicapped by extraordinary interest charges upon an accumulated nondescript indebtedness, so large as to make it necessary to starve the property with respect to maintenance in order to keep it solvent, especially in view of the fact that the payment of dividends was commenced in 1906 and continued until 1914, during which time \$4,160,000 was dispensed to stockholders that should have been returned to the property in the form of well-conceived improvements, it was inevitable that a time would arrive when it would be necessary to make the expenditures required for the purpose of modernizing and strengthening the railroad to enable it to handle its traffic at least as economically as its competitors, and, if possible, with greater economy. The present administration took up the management of the

property in 1912. For three years the struggle to pay interest was continued. During this term 105 heavy Mikados were purchased, a large number of cars that were unsuitable for service were scrapped, and improvements to the property, such as the replacement of weak bridges, and other undertakings that could not be longer deferred were entered upon, but the lack of funds made the vigorous prosecution of necessary undertakings impossible until after the receivership, which began on September 27, 1915."

With reference to capitalization and interest, the report says:

"Prior to the receivership, as a natural consequence of excessive fixed charges, it was necessary to operate the road very closely to prevent default. It was originally constructed without reference to economical operation, with grades fitted to the natural configuration of the ground, with narrow banks and cuts, light bridges and rails, and light power.

"The work of rehabilitation is being carried on in a thorough and systematic manner. The reorganization of the store department and the establishment of a proper relation between it and the purchasing department has been consummated, and in fact, it may be stated in general that some of the changes recommended in this report, which will surely result in a large saving, have been made or in the natural order of things will be made in the future to the great benefit of the property."

Kendrick compares the interest charges of the Missouri, Kansas & Texas with other roads and finds, on the basis of reported operations of 1915, the ratio of the interest charges to the income available for interest to have been as follows:

	Per cent.
Missouri, Kansas & Texas.....	81
Atchison, Topeka & Santa Fe.....	35
Chicago, Burlington & Quincy.....	27
Northern Pacific.....	43
Great Northern.....	24
Chicago & North Western.....	45
Union Pacific.....	33

Missouri, Kansas & Texas operates in five States:

	Miles.
Missouri .....	542. 58
Kansas .....	494. 24
Oklahoma .....	1, 036. 24
Texas .....	1, 772. 69
Louisiana .....	19. 29
Total .....	3, 865. 04

Missouri, Kansas & Texas Railway Co. was chartered September 25, 1865, under the laws of Kansas as the Union Pacific Railway Co., Southern Branch. On May 23, 1870, the name was changed to Missouri, Kansas & Texas Railway Co., hereinafter referred to as the railroad system. The railroad system at present consists of—

	Miles.
Missouri, Kansas & Texas Railway Co.....	1, 663
Missouri, Kansas & Texas Railroad Co. of Texas.....	1, 119
Texas Central.....	398
Wichita Falls & Northwestern Railway Co. of Oklahoma.....	328

The Texas company was organized October 28, 1891, to hold the Texas lines.

The Texas Central was purchased in 1910, the Wichita Falls & Northwestern in 1912. All the stock of the Texas company is owned by the parent company and the lines operated by the parent company under lease. This railroad system's lines extended in general from St. Louis through Oklahoma and Texas to Galveston and Freeport as shown by a map on a preceding page.

Theodore Prince of the firm of L. M. Prince & Co., members of the New York Stock Exchange, contends that the financial difficulties of this railway system are directly traceable to its program of extension and the financing of such extension through short-term notes. (Moody's Magazine, vol. 18, p. 187.) His recitation of the history of the \$19,000,000 of notes due May 1, 1915, is in substance as follows:



"In 1910 when the company initiated its program of extension, the market was unfavorable for the long term financing. The purchase of the Texas Central required \$3,600,000. This amount was obtained through the issue of three-month notes due September 6, 1910. About the same time the Missouri, Kansas & Texas Terminal Co. of St. Louis, a subsidiary, acquired terminal properties at St. Louis costing \$2,000,000. This amount was obtained through an issue of a six-month note indorsed by the railroad system. When this note became due, the subsidiary was able to raise the money by the sale of \$3,000,000 of bonds to the railway system.

"Additional equipment called for an expenditure of \$4,000,000. To meet these demands to pay the maturing notes, the railroad system sold \$10,000,000 of one-year 5 per cent secured gold notes, dated August 1, 1910, due August 1, 1911.

"On May 1, 1911, the railroad system issued \$12,850,000 of two-year 5 per cent notes as part of an authorized issue of \$16,000,000. The proceeds amounting to \$10,000,000 were used to pay the former notes, the balance was expended for additions and betterments. Payment of these notes was in part secured by the pledge of \$16,452,000 of consolidated mortgage bonds.

"In 1912 \$3,150,000, being the balance of the \$16,000,000 note issue, was issued. In the same year \$1,500,000 of one-year 5 per cent notes were issued as part payment for the property of the Wichita Falls & Southern Railroad, these notes maturing July 1, 1913. The company in 1912 pledged further consolidated bonds in the amount of \$4,728,000.

"In 1913 the railroad system authorized a \$25,000,000 two-year 5 per cent note issue. Of this amount \$19,000,000 was issued, \$17,500,000 to pay former notes, and the balance for additions and betterments. The \$25,000,000 note issue was secured by the pledging of \$28,217,000 consolidated mortgage bonds."

Commenting on this method of financing, Theodore Prince says:

"Clearing the financing was done in the hope of constructing a system which in time was to become so profitable that the consolidated fives would have sufficient earning power behind it to make it a marketable mortgage. The period over which these notes were refunded was the acute stage of the Interstate Commerce Commission activities. That the hopes of the management were not to be realized can not now be charged against it. In fact, it is a serious question whether most of the troubles of the railroad system are not a result of the poorer operations in the State of Texas and the well-known antagonism of that State to railroad enterprises."

L. M. Prince's article was published in Moody's Magazine in April, 1915. An editorial appearing in the same magazine in October, 1915 subsequent to the appointment of a receiver reads, in part, as follows:

"The announcement of a receivership for the Missouri, Kansas & Texas Railway this week should be a surprise to no one. The company has been on the verge of bankruptcy for months. While the immediate cause of the downfall of this vast system of lines was no doubt due to the poor earnings a year ago, the unsettlement caused by the war, and the setback in the Southwestern territory generally, yet these were not the real causes. We must go back to the time, half a dozen years ago, when the road began its policy of expansion into new fields and its rapid expansions in obligations. An enormous amount of new mileage has been added since 1908, and the financing of this new mileage was for the most part ill judged and extravagant."

The editorial continues: "Five years ago the Missouri, Kansas & Texas and Kansas City Southern were properties having similar credit. At this writing the former is in the hands of a receiver, while the latter's credit remains unimpaired. The former entered upon a program of extensive, the latter intensive, development."

The capitalization, operating revenues, and expenses per mile of these two railroad systems for the year ending June 30, 1916, are reported by Moody, in his Analyses of Railroad Investment, as follows:

Item.	Missouri, Kansas & Texas.	Kansas City Southern.
Stock per mile.....	\$19,748	\$60,931
Bonds per mile.....	36,660	58,623
Rentals capitalized at 5 per cent.....	3,466	—
Total gross capital.....	59,874	119,554
Owned by company, as per balance sheet.....	84	—
Net capitalization.....	59,790	119,554
Average miles operated.....	3,865	837
Gross revenues.....	8,402	12,639
Maintenance.....	3,260	2,878
Other operating expenses.....	3,414	4,722
Net operating revenues.....	1,728	5,039
Total net income.....	1,833	5,373
Taxes accrued.....	427	672
Balance charges.....	1,404	4,701
Fixed charges.....	1,890	2,639
Loss.....	486	—
Surplus.....	—	2,069

While the Kansas City Southern's capitalization is in excess of that of the Missouri, Kansas & Texas, the earnings of the former road per mile exceed those of the latter by \$4,237.

The Moody editorial (October, 1915) is to the effect that the reorganization of Missouri, Kansas & Texas will have to provide for a very drastic scaling down of fixed charges and a large increase in cash.

The capitalization per mile of Missouri, Kansas & Texas is reported as follows:

*Capitalization per mile.*

[Data from Moody's Analyses of Railroad Investments.]

Year ended June 30—	Stock.		Bonds.		Rentals capital- ized at 5 per cent.	Total gross capital.	Owned by com- pany as per balance sheet.	Net capitali- zation.	Net income on net capital.
	Out- standing.	Per cent.	Out- standing.	Per cent.					
									<i>Per cent.</i>
1907.....	\$26,114	42	\$35,256	58	\$3,115	\$64,485	\$1,081	\$63,404	4.7
1908.....	26,114	42	36,529	58	3,303	65,946	2,063	63,883	3.9
1909.....	26,114	42	36,226	58	3,433	65,793	None.	65,793	4.0
1910.....	24,837	40	38,362	60	4,570	67,769	458	67,311	3.9
1911.....	22,604	40	37,499	60	3,922	64,025	725	63,300	4.2
1912.....	22,452	31	45,098	69	3,409	70,959	202	70,757	3.0
1913.....	20,758	35	38,284	65	3,077	62,119	167	61,952	4.5
1914.....	19,955	35	36,806	65	2,739	59,500	173	59,327	4.0
1915.....	19,747	35	36,841	65	2,850	59,438	84	59,354	4.4
1916.....	19,748	35	36,660	65	3,466	59,874	84	59,790	3.0
10-year average..	22,844	38	37,756	62	3,590	61,900	501	63,486	3.9

<sup>1</sup> Excludes \$10,292,000 consolidated mortgage bonds pledged and \$2,749,000 general mortgage bonds held in sinking fund.

The revenues and expenses per mile of Missouri, Kansas & Texas are reported as follows:

*Income factors earnings and their distribution per mile of road.*

[Data from Moody's Analyses of Railroad Investments.]

Year ended June 30.	Average miles operated.	Gross revenues.	Maintenance.			All other operating expenses.	Net oper- ating revenues.
			Way.	Equip- ment.	Total.		
1907.....	3,072	\$8,523	\$1,129	\$949	\$2,078	\$3,537	\$2,908
1908.....	3,072	7,579	1,012	989	2,001	3,347	2,231
1909.....	3,072	8,236	1,097	1,100	2,197	3,554	2,485
1910.....	3,072	8,646	1,333	1,078	2,411	3,835	2,400
1911.....	3,377	8,607	1,155	1,051	2,206	3,898	2,503
1912.....	3,398	8,293	1,215	1,102	2,317	3,922	2,054
1913.....	3,677	8,797	1,261	1,115	2,376	3,827	2,594
1914.....	3,825	8,240	1,196	1,028	2,224	3,716	2,300
1915.....	3,865	8,512	1,165	1,185	2,350	3,593	2,560
1916.....	3,865	8,402	1,743	1,517	3,260	3,414	1,728
10-year average...	3,430	8,384	1,231	1,111	2,342	3,665	2,377

Year ended June 30.	Total net income.	Taxes accrued.	Balance for charges.	Fixed charges.	Margin of safety.	Surplus over charges.	Dividend paid.
					<i>Per cent.</i>		
1907.....	\$2,966	\$139	\$2,827	\$1,628	41	\$1,199	\$169
1908.....	2,322	224	2,098	1,695	19	403	169
1909.....	2,544	315	2,229	1,782	20	447	169
1910.....	2,501	330	2,171	1,832	16	339	169
1911.....	2,631	298	2,333	1,807	23	526	149
1912.....	2,148	312	1,836	1,831	.....	5	151
1913.....	2,775	350	2,425	1,795	26	630	141
1914.....	2,357	392	1,965	1,824	7	141	68
1915.....	2,626	344	2,282	1,900	17	382	.....
1916.....	1,833	427	1,401	1,890	.....	1 486	.....
10-year average...	2,470	313	2,157	1,798	16	359	119

<sup>1</sup> Deficit.

NOTE.—Above table is based on average mileage directly operated each year. Margin of safety is proportion of surplus left over, after deducting all fixed charges.

No reorganization plan has to date (Sept. 30, 1917) been approved by the stockholders and creditors of Missouri, Kansas & Texas.

RECEIVERSHIP OF THE MISSOURI PACIFIC RAILWAY CO. AND ST. LOUIS, IRON MOUNTAIN & SOUTHERN RAILWAY CO.

On August 19, 1915, Judge Adams, of the United States court at St. Louis appointed President B. F. Bush receiver of the Missouri Pacific Railway Co., hereinafter referred to as the Missouri Pacific and of the St. Louis, Iron Mountain & Southern Railway Co., hereinafter referred to as the Iron Mountain. All of the outstanding stock of the Iron Mountain is owned by the Missouri Pacific. The two companies will be referred to as Missouri Pacific-Iron Mountain.

The Missouri Pacific might be designated as the hub of the former Gould railway system. Extending south to El Paso and Galveston, Tex., and New Orleans, La., are the lines of the Iron Mountain, the Texas Pacific, and the International & Great Northern. To reach the Pacific, control of the Denver & Rio Grande was acquired and the Western Pacific line constructed. The Atlantic coast was to have been reached by means of the Wabash, the Wheeling & Lake Erie, the Pittsburgh Terminal, and the Western Maryland. All of these roads, with the exception of the Denver & Rio Grande, have been or are in the process of reorganization, a rather emphatic rebuke to the Gould methods of financing and constructing railway properties. Western Maryland has been reorganized without passing through the hands of a receiver. The



receivers of the Western Pacific, the Wabash, Wheeling & Lake Erie, Missouri Pacific, and Wabash Pittsburg Terminal Cos. have been discharged and possession of the property restored to the security holders. The properties of the Texas Pacific and International & Great Northern are still in the possession of the receivers.

Short-term financing and the investment in nondividend and interest-bearing properties wrecked the Missouri Pacific & Iron Mountain. The difficulties confronting this railway system have been discussed at length by financial writers and others versed in railroad affairs.

Kuhn, Loeb & Co., when first asked to finance the extension of the \$25,000,000 notes of the Missouri Pacific, refused to do so (*Railway Age Gazette*, vol. 56, p. 1120, May 15, 1914), and published a letter, reading in part as follows:

"Fixed charges resting on the Missouri Pacific system have become decidedly too heavy, both in relation to earnings and in proportion to the equity represented by the amount of stock outstanding.

"From the information before us it appears that, in order to meet maturing equipment and other obligations—to purchase greatly needed additional equipment and to keep its lines in proper physical condition—the company must be assured for the next two years of at least \$10,000,000 in addition to the \$25,000,000 required for payment of its maturing notes, or a total of at least \$35,000,000, while within seven years bonds in the amount of \$50,000,000 mature."

The *Railway Age Gazette's* editorial comment (vol. 56, p. 1174, May 29, 1914) on the financial difficulties of the Wabash, the Frisco, the Rock Island, and the Missouri Pacific reads, in part, as follows:

"It is absolutely essential, if the success of the reorganization of the four properties now in difficulties is to be based on anything more substantial than a hope for good luck, that the scaling down of fixed charges be drastic; that the amount of new capital to be paid into the companies be ample, and that—in the case of all four roads—the management of the properties, after the reorganization, be intrusted to men whose sole object would be the building up of these properties.

"It is hard to sympathize deeply with the great majority of the holders of the stock of any of these companies. (Does not refer to the minority stockholders of the Rock Island.) Under no conceivable definition of the word, could these stocks have been considered investment at any time within the past 10 to 15 years. They were speculations pure and simple and the speculator must be prepared to take losses as well as profits.

"The Wabash and the Missouri Pacific were both burdened in the past decade with a capitalization which represents only in part money used for additions and betterments to these properties, the rest of the money having been used to help other Gould properties or to advance other Gould projects."

In its editorial of October 30, 1914, the *Railway Age Gazette* (vol. 57, p. 784), commenting on the financial condition of the Missouri Pacific, says:

"The Missouri Pacific is living on the ragged edge. Expenses and interest charges in 1914 called for 99.88 per cent of the total revenue and income accrued."

In its issue of December 31, 1915, the *Railway Age Gazette* (vol. 59, p. 1222), commenting on the receiverships and foreclosure sales during 1915, refers to the Missouri Pacific in these words:

"The Missouri Pacific was one of the Gould roads. It was much over-capitalized, its credit having been used for financing other Gould railway projects, and control of the company was secured by Kuhn, Loeb & Co., of New York. This strong banking house proposed a reorganization plan under which all classes of security holders would have accepted certain readjustments and the holders of junior bonds and the bonds on what were considered unimportant lines would have accepted a nominal scaling down of the face value of their securities and accepted a preferred stock in place of a bond. Common stockholders were asked to subscribe sufficient money to rehabilitate the property. It was soon found, however, that it was quite impossible to reconcile the various conflicting interests of security holders, and that the only way to effect a reorganization would be through a receivership. The road, therefore, was put into the hands of receivers."

Arthur Selwyn-Brown, Ph. D., in his article entitled "Missouri Pacific reorganization" (*Moody's Magazine*, vol. 18, p. 551), alleges that the Missouri Pacific-Iron Mountain's annual report shows defective management in both its

financial and operating departments. He finds that the fixed charges in 1906 were \$10,056,388 and in 1915, \$15,397,361, that the fixed charges absorbed 26 per cent of the gross income, that the company at the present time has stock outstanding in the amount of \$82,742,780 and funded debt \$279,440,620, or a total of \$362,183,400, as against a total of \$289,440,467 in 1909.

To quote:

"Everything shows that the dead weight due to heavy funded debt is basically the most important factor handicapping the system. The heavy fixed charges due to funded debt caused the neglecting of the equipment and tracks and to the other unwise economies. These all interfered with traffic and limited the revenue."

After discussing the reorganization plan of the Missouri Pacific, to which we will refer later, Selwyn-Brown continues:

"It is a system occupying territory of unsurpassed prospects and the strategic location of lines could hardly be improved upon. The present troubles have been brought about by bad management rather than through any defect in the company's business. The methods used in financing the road were unsatisfactory and financial conditions operating against the management precipitated the change in control."

Thomas F. Donahue, in an article entitled "The Missouri Pacific—Can it survive" (Moody's Magazine, October, 1916), writes, in part, as follows:

"For 40 years or more the system [Missouri Pacific] formed the keystone of that group of railroads known as the Gould lines. Through the storm and stress of fat and lean years, dividends were wrung from the Missouri Pacific by a process of starving its subsidiaries. From 1892 to 1900 such was the peculiar management dominating the Missouri Pacific Railway that even with the policy of dragging from its feeders every possible cent they earned, it was unable to pay any dividends. From 1900 to 1908 it paid annual dividends ranging from 2½ per cent to 5 per cent annually, the last being a stock dividend of 2½ per cent in January, 1908.

"All this time the railway company, which had been under the absolute domination of the Goulds, was being constantly saddled with mortgage after mortgage, both on the main line and branches.

"The acquisition of the St. Louis, Iron Mountain & Southern in 1909 (the stock of the company owned prior to 1909), however judicious a move in point of railway strategy, was followed by still more bonds until the overburdened system could no longer endure the load and its back broke under the strain. \* \* \*

"It was a burden of fixed charges rather than inefficient operations that created the precarious situation in which the railway company found itself as early as 1912. \* \* \*

"Gould influence has left the system with impaired credit, a burden of interest-bearing obligations amounting to more than three times the amount of its capital stock and more than \$40,000,000 par value of investments in non-paying securities of different Gould lines."

Should one be inclined to question the causes of the financial difficulties of the Missouri Pacific, as set forth in the foregoing quotations and extracts, he will find that they are corroborated by a statement appearing in the reorganization committee's plan of July 1, 1915, which reads as follows:

"Prominent among the causes to which the present plight of the company is due are unremunerative freight and passenger rates, both local and interstate, from which the company thus far has been unable to obtain material relief; heavy increase in taxation and wages, and many burdensome requirements imposed by public authorities; and large investments in the securities of other railroad companies, which, although they must have been justified at the time they were made, have since become unproductive. The amount invested in such securities aggregate about \$40,000,000 and entails heavy interest charges with no counter-balancing income from dividends or interest."

Let us next direct our attention first to the financial reports of the Missouri Pacific-Iron Mountain; and second to the reorganization plan.

On June 30, 1916, Missouri Pacific-Iron Mountain owned and operated the following mileage:

*Mileage June 30, 1916.*

[Data from stockholder's report.]

Name of company and States.	Mileage owned.				Mileage of leased lines and trackage rights. <sup>1</sup>	Total mileage of tracks operated.
	First main track.	Additional main track.	Sidings and spurs.	Total.		
<b>The Missouri Pacific Ry. Co.:</b>						
Missouri.....	903.49	42.59	403.20	1,349.29	114.03	1,463.31
Kansas.....	2,353.57	5.49	466.77	2,825.83	32.55	2,858.38
Nebraska.....	371.37	8.30	95.60	475.27	8.66	483.93
Colorado.....	152.12		36.38	188.50		188.50
Total.....	3,780.55	56.38	1,001.95	4,838.88	155.24	4,994.12
<b>St. Louis, Iron Mountain &amp; Southern Ry. Co.:</b>						
Missouri.....	544.10	22.10	239.99	806.19	81.12	887.31
Illinois.....	194.20	89.38	139.22	422.80	69.72	492.52
Arkansas.....	1,703.18	100.77	559.10	2,369.05	48.54	2,417.59
Louisiana.....	572.52		130.02	702.54	195.57	898.11
Oklahoma.....	161.62		35.51	197.13		197.13
Tennessee.....					2.27	2.27
Total.....	3,181.62	212.25	1,103.84	4,497.71	397.22	4,894.93
Grand total.....	6,962.17	268.63	2,105.79	9,336.59	552.46	9,889.05

Includes mileage of sidings and spur track.

The lines of the Missouri Pacific extend from St. Louis, Mo., to Pueblo, Colo., via Kansas City. From Kansas City a line extends north to Omaha, Nebr., via Atchison, Kans. Many main-line branches are located in western Missouri and eastern Kansas.

One line of the Iron Mountain extends from St. Louis, Mo., southwesterly to Texarkana via Little Rock, Ark. A line from Diaz, Ark., connects with the Missouri Pacific at Carthage, Mo. Another line starting at Jacksonville near Little Rock, Ark., connects with Missouri Pacific at Coffeyville, Kans. From the St. Louis-Texarkana line numerous lines extend to Mississippi River points. A line extends from Memphis, Tenn., to Lake Charles, La. New Orleans, La., is reached via the lines of the Texas & Pacific from Alexandria, La.

For a more exact location of the lines of the Missouri Pacific-Iron Mountain, reference is here made to the map attached to this report.

The assets and liabilities of the Missouri Pacific as of June 30, 1916, are reported to its stockholders as follows:

**Assets:**

Investments.....		\$248,309,411.53
Road and equipment.....	\$156,696,123.75	
Stocks and bonds.....	90,549,392.77	
Miscellaneous.....	1,063,895.01	
Current assets.....		8,534,302.24
Cash.....	418,722.09	
Special deposits.....	628,961.56	
Loans and bills receivable.....	6,517.08	
Traffic and car service balances.....	377,639.23	
Due from agents and conductors.....	1,132,768.69	
Miscellaneous accounts received.....	2,304,364.23	
Materials and supplies.....	2,774,614.11	
Interest and dividends received.....	795,433.30	
Other current assets.....	95,281.95	
Deferred assets.....		1,522,818.14
Unadjusted debits.....		274,929.32
Total assets.....		258,641,461.23



## Liabilities:

Capital stock .....		82,702,585.00
Stock liability for conversion .....		138,500.00
Funded debt .....		160,381,500.00
Current liabilities .....		14,307,278.31
Loans and bills payable .....	\$140,000.00	
Traffic and car service balance .....	1,532,119.35	
Audited accounts and wages payable .....	4,715,755.78	
Miscellaneous accounts payable .....	278,875.11	
St. Louis, Iron Mountain & Southern Ry. Co. ....	617,368.02	
Interest matured, unpaid .....	4,706,607.50	
Unmatured interest accrued .....	2,069,972.00	
Unmatured rents accrued .....	23,434.36	
Other current liabilities .....		223,146.19
Deferred liabilities .....		24,605.60
Unadjusted credits .....		2,540,765.16
Deficit .....		1,453,772.84
Total liabilities .....		258,641,461.23

The following capital liabilities are not included in balance-sheet accounts:

Capital stock in treasury .....	\$410,000
Funded debt held in treasury .....	2,416,500
Funded debt pledged .....	50,432,000

Total .....

53,258,500

The assets and liabilities of the Iron Mountain are reported, as of June 30, 1916, as follows:

## Assets:

Investments .....		\$188,707,353.38
Road and equipment .....	\$163,293,398.98	
Stocks, bonds, etc .....	23,118,102.81	
Miscellaneous .....	2,295,851.59	
Current assets .....		6,400,978.96
Cash .....	191,206.63	
Special deposits .....	1,262,991.47	
Loans and bills receivable .....	54,460.50	
Traffic and car balances .....	286,383.11	
Due from agents and conductors .....	858,791.24	
Miscellaneous accounts receivable .....	1,071,820.58	
The Missouri Pacific Railway Co. ....	617,368.02	
Materials and supplies .....	1,993,573.92	
Interest and dividends .....	44,384.27	
Other current assets .....	19,999.22	
Deferred assets .....		13,832.07
Unadjusted debit items .....		250,748.15
Total assets .....		195,372,912.56

## Liabilities:

Stock .....		44,394,738.59
Capital stock .....	\$44,391,298.59	
Stock liability for conversion .....	3,440.00	
Long-term debt .....		142,644,120.00
Current liabilities .....		9,140,375.32
Loans and bills payable .....	1,000,000.00	
Audited accounts and wages payable .....	3,829,828.04	
Miscellaneous accounts payable .....	111,786.93	
Interest matured unpaid .....	3,226,326.15	
Unmatured interest accrued .....	804,390.83	
Unmatured rents accrued .....	106,413.91	
Other current liabilities .....	61,629.46	
Deferred liabilities .....		83,347.43
Unadjusted credits .....		733,187.22
Profits and loss—deficit .....		1,622,856.00
Total liabilities .....		195,372,912.56

The condensed balance sheet of Missouri Pacific-Iron Mountain, as of June 30, 1916, shows the following:

**Assets:**

Investments		\$368,660,184.02
Road and equipment	\$319,989,522.73	
Stocks, bonds, etc	45,310,914.69	
Miscellaneous	3,359,746.60	
Current assets		12,562,982.85
Cash	609,928.72	
Special deposits	1,891,953.03	
Loans and bills receivable	60,977.58	
Traffic and car service balances	377,639.23	
Due from agents and conductors	1,991,559.93	
Miscellaneous accounts receivable	2,665,077.59	
Materials and supplies	4,768,188.03	
Interest and dividends receivable	82,377.57	
Other current assets	115,281.17	
Deferred assets		21,770.21
Unadjusted debit items		525,677.47
<b>Total assets</b>		<b>381,770,614.55</b>

**Liabilities:**

Stock		82,884,720.00
Capital stock	\$82,742,780.00	
Stock liability for conversion	141,940.00	
Long-term debt		277,777,620.00
Current liabilities		19,560,475.28
Loans and bills payable	1,140,000.00	
Traffic and car service balances	1,245,736.24	
Audited accounts and wages payable	7,834,476.60	
Miscellaneous accounts payable	390,662.04	
Interest matured	15,660,613.65	
Unmatured interest accrued	2,874,362.83	
Unmatured rents accrued	129,848.27	
Other current liabilities	284,775.65	
Deferred liabilities		107,953.03
Unadjusted credits		1,759,072.38
Insurance and casualty reserves	37,417.76	
Operating reserves	1,900.54	
Accrued depreciation—equipment	1,430,307.91	
Other unadjusted credits	289,446.17	
Corporate deficit		319,226.14
Additions to property through income	27,392.79	
Net discount on securities issued or assumed	1,242,522.70	
Profit and loss—deficit	1,589,141.63	
<b>Total liabilities</b>		<b>381,770,614.55</b>

The book value of the investments of Missouri Pacific in stock, bonds, and notes of other corporations is reported at-----

90,549,392.77

The par value at-----

108,866,889.40

The difference is-----

18,317,496.63

The securities owned (par value) consist of:-

Stock	880,611,823.59
Bonds	26,513,000.00
Notes	1,582,778.82
Miscellaneous	159,286.99
<b>Total</b>	<b>108,866,889.40</b>

<sup>1</sup> Does not include \$1,514,880 interest due to Missouri Pacific on Iron Mountain income bonds.

Among the stocks owned are the following:

St. Louis, Iron Mountain & Southern, common	\$44,349,103.59
Denver & Rio Grande, common	17,295,000.00
Denver & Rio Grande, preferred	9,805,000.00
Texas & Pacific, common	6,525,000.00
Miscellaneous	2,637,720.00
<b>Total</b>	<b>80,611,823.59</b>

Among the bonds owned are:

St. Louis, Iron Mountain & Southern Ry. first and refunding mortgage bonds	\$25,248,000.00
Miscellaneous	1,265,000.00
<b>Total</b>	<b>26,513,000.00</b>
Gold notes of Texas & Pacific owned	828,380.00

The stock of Iron Mountain and the notes of Texas & Pacific are valued at par. The \$25,248,000 Iron Mountain bonds are valued at \$23,801,343. The book value of the Denver & Rio Grande and Texas & Pacific stock is not separately reported.

The book value of the investments of Iron Mountain in stocks, bonds, and notes of other corporations is reported at \$23,118,102.81, the par value at \$31,714,736.79, the difference being \$8,596,633.98.

The securities owned consist of—

	Par value.	Book value.
Stock	\$2,415,666.00	\$2,490,331.02
Bonds	26,529,250.00	17,857,951.00
Notes	1,380,229.90	1,380,229.90
Miscellaneous	1,389,590.89	1,389,590.89
<b>Total</b>	<b>31,714,736.79</b>	<b>23,118,102.81</b>

Among the bonds owned are \$23,703,000 second-income bonds of Texas & Pacific and \$200,000 first-mortgage Baring Cross Bridge Co. bonds, or a total of \$23,903,000 which the company values at \$15,815,750. The value is alleged to represent the cost of the bonds to the Iron Mountain.

Iron Mountain also owns \$30,000 of stock and \$842,600 6 per cent notes due June 1, 1915, of Texas & Pacific. Bonds of the State of Arkansas in the amount of \$584,000 are valued at \$1, the bonds having been repudiated.

Missouri Pacific-Iron Mountain on June 30, 1912, owned stocks and bonds of the Wabash Railroad Co. as follows:

<b>Missouri Pacific:</b>	
Preferred stock	\$7,000,000
<b>Iron Mountain:</b>	
Common stock	2,826,200
Preferred stock	2,826,200
First and refunding extension bonds	2,913,200

The investment in the common and preferred stock of the Wabash represents a total loss. The \$2,913,200 of bonds were sold for a net amount of \$892,643.42. To quote from the stockholder's report for 1915-16—

"The plan and agreement of reorganization of the Wabash Railroad Co. provided for an assessment of \$654.82 in respect of each \$1,000 face value of first refunding and extension mortgage bonds of the Wabash Railroad Co.—\$2,913,000 par value of these bonds were owned by the St. Louis, Iron Mountain & Southern Railway Co., and were deposited with the Metropolitan Trust Co., New York, as trustee of its unifying and refunding mortgage. Under order of the court the receiver paid the first installment of 10 per cent on the assessment and subsequently disposed of the certificates of deposit representing the bonds, the net proceeds of which amounted to \$892,643.42, which was deposited with



the trustee of the unifying and refunding mortgage to the credit of the addition and improvement fund; the difference between the ledger value and the proceeds of the sale of same amounting to \$986,370.58, as well as the ledger value of 28,262 shares of common and 28,262 shares of preferred stock owned by the St. Louis, Iron Mountain & Southern Ry. Co. and 70,000 shares of preferred stock of the Wabash Railroad Co., owned by the Missouri Pacific Ry. Co., which had previously been written down to \$31,631 was written off to profit and loss.

"This disposed of all interest of these companies in the securities of the Wabash Railroad Co."

Tables following show the dividends and interest received by Missouri Pacific and the Iron Mountain on stocks and bonds owned by them.

The following tables show the capitalization, revenues, and expenses of Missouri Pacific and Iron Mountain and of the combined properties.

*Book cost of property investments, returns, expenses, interest and dividends received, interest, taxes, dividends, etc., paid.*

[Data from stockholder's reports.]

MISSOURI PACIFIC RY. CO.

Items.	1916	1915	1914	1913	1912	1911	1910	1909	1908	1907
<b>Investments:</b>										
Road and equipment.....	136,696,127.75	136,498,499.24	135,013,952.87	134,551,504.35	133,021,115.24	147,951,199.25	145,245,198.82	82,550,217.01	81,765,559.65	79,800,937.22
Securities owned, book value.....	90,549,392.87	90,548,125.45	91,902,004.25	91,246,916.83	89,006,135.35	86,469,188.39	75,599,704.53	106,956,417.32	113,065,623.75	92,696,106.76
Capitalization.....	82,841,085.00	82,841,085.00	82,841,085.00	82,841,085.00	82,841,085.00	83,251,085.00	83,251,085.00	79,753,985.00	79,753,985.00	77,817,875.00
Stock outstanding.....	169,384,500.00	161,187,500.00	161,910,500.00	162,806,500.00	164,357,500.00	178,804,500.00	189,044,500.00	99,398,937.50	102,291,812.50	94,820,350.00
Bonds and equipment notes outstanding.....										
<b>Operating results:</b>										
Operating revenues.....	31,589,056.14	28,325,676.39	26,696,013.84	28,091,847.26	24,151,077.36	24,288,576.34	23,426,679.08	21,468,536.94	20,946,611.13	23,089,870.71
Operating expenses.....	24,841,130.85	21,699,163.87	21,892,703.31	22,113,731.39	21,136,534.21	22,864,213.26	18,063,751.65	16,905,422.83	15,081,002.30	16,369,644.76
Net operating revenue.....	6,744,925.29	6,626,512.52	4,803,310.53	5,978,115.87	3,257,543.15	1,424,363.08	5,362,928.03	4,563,114.11	5,265,608.83	6,720,225.95
Taxes, railway.....	1,293,987.76	1,213,703.21	1,170,179.51	1,125,710.63	1,110,958.27	978,008.49	907,504.49	852,558.37	895,544.65	807,951.44
Net operating income.....	5,349,937.53	5,412,749.31	3,633,131.02	4,852,405.24	2,146,584.88	446,354.59	4,455,423.54	3,710,555.74	4,370,064.18	5,912,274.51
<b>Other income:</b>										
Dividends received.....	16,797.00	31,697.00	1,809,281.00	1,808,755.00	2,016,190.00	636,758.03	3,578,261.40	2,296,688.60	2,753,268.73	5,563,503.93
Interest received.....	114,435.43	1,625,861.09	1,666,366.52	1,690,900.63	1,183,345.68	468,863.19	56,891.66	62,310.00	35,760.00	52,670.00
Rent.....	780,780.82	612,805.70	178,906.37	152,061.71	110,808.71	94,348.31	90,745.85	20,000.00	114,266.63	46,495.64
Miscellaneous.....	38,366.43	36,817.92	46,381.77	69,393.73	134,031.26	85,854.17	33,668.14	477,469.32	675,432.63	289,358.08
Total.....	951,388.68	2,307,271.71	3,701,225.66	3,721,121.07	3,444,384.65	1,305,823.70	3,759,567.05	2,856,467.92	3,578,728.01	5,952,027.65
Gross income available to pay interest, etc.....	8,927,876.74	7,698,044.80	7,334,356.68	8,543,523.31	5,590,969.53	1,752,178.29	8,214,990.59	6,567,023.66	7,948,792.19	11,904,055.30
<b>Deductions:</b>										
Interest on funded debt.....	8,066,208.60	7,962,409.81	7,739,741.80	7,741,793.77	7,443,077.89	6,621,946.67	5,108,312.51	4,655,094.83	4,259,454.18	4,078,077.50
Other interest.....	10,807.52	35,280.54	22,399.87	6,331.07	207,963.35	297,963.35	480,371.19	265,589.03	221,731.46	.....
Rent.....	1,121,071.33	974,906.36	529,773.69	392,513.39	167,949.18	797,293.06	148,106.54	640,775.75	668,778.07	225,403.88
Miscellaneous.....	97,367.29	65,741.78	21,688.51	32,987.76	5,961.67	176,084.25	23,184.08	35,900.07	51,757.00	510,982.19
Total.....	9,295,454.74	9,038,338.49	8,313,804.17	8,173,825.90	7,916,988.74	7,803,293.33	6,029,974.32	5,597,359.68	5,201,720.71	4,814,463.57
Surplus available for dividends.....	2,893,128.23	1,318,317.47	1,979,447.49	369,697.32	1,236,019.21	6,051,115.04	2,185,016.27	969,663.98	2,747,071.48	7,089,591.73
Dividends paid.....									1,935,210.00	3,890,875.00







As shown in the preceding tables, the Missouri Pacific Railway Co.'s financial statements for 1916, as compared with 1907, shows the following:

Item.	1916	1907
Road and equipment .....	\$156,696,127.75	\$79,860,937.22
Securities owned, book value.....	90,549,392.87	92,696,106.76
Stock outstanding.....	82,844,085.00	77,817,875.00
Funded debt.....	160,381,500.00	94,820,350.00
Operating revenues.....	31,589,056.44	23,089,870.71
Operating expenses.....	24,844,130.85	16,369,644.76
Net operating revenues.....	6,744,925.59	6,720,225.95
Taxes.....	1,293,987.76	807,951.44
Net operating income.....	5,340,937.83	5,912,274.51
Interest, dividends, and other income.....	951,388.68	5,952,027.65
Income available to pay interest, rents, etc.....	8,977,876.74	11,904,055.30
Interest payable.....	8,077,016.12	4,078,077.50
Rents payable.....	1,121,071.33	225,403.88
Miscellaneous deductions.....	97,367.29	510,982.19
Total deduction.....	9,295,454.74	4,814,463.57
Surplus.....		7,089,591.73
Deficit.....	2,893,128.23	
Dividends paid.....		3,890,875.00

Reference is here made to the tables on the preceding pages for the financial statement of the Iron Mountain and the consolidated financial statement of the Missouri Pacific-Iron Mountain.

The revenues and expenses per mile of road of Missouri Pacific-Iron Mountain are shown in the following table:

*Revenues and expenses per mile of road operated.*

[Data from Moody's Analyses of Investments.]

Years ended June 30—	Average miles operated.	Gross revenues.	Maintenance.			All other operating expenses.	Net operating revenues.
			Way.	Equip- ment.	Total.		
1907.....	6,375	\$7,639	\$926	\$1,098	\$2,024	\$3,076	\$2,539
1908.....	5,479	6,827	1,026	846	1,872	3,011	1,944
1909.....	6,489	7,148	1,079	1,085	2,164	3,064	1,920
1910.....	6,775	7,826	1,181	1,135	2,316	3,226	2,284
1911.....	7,235	7,295	1,241	1,146	2,387	3,402	1,306
1912.....	7,231	7,537	1,198	1,151	2,349	3,360	1,828
1913.....	7,257	8,565	1,276	1,359	2,635	3,524	2,406
1914.....	7,285	8,208	1,172	1,407	2,579	3,340	2,289
1915.....	7,285	7,990	1,118	1,478	2,596	3,246	2,148
1916.....	7,341	8,761	1,442	1,901	3,343	3,324	2,184
10-year aver- age.....	6,975	7,780	1,166	1,261	2,427	3,268	2,085

Years ended June 30—	Total net income.	Taxes accrued.	Balance for charges.	Fixed charges.	Surplus over charges.	Dividends paid.
1907.....	\$3,054	\$233	\$2,821	\$1,614	\$1,207	\$613
1908.....	2,387	254	2,133	1,674	459	299
1909.....	2,181	164	1,917	1,753	164	
1910.....	2,563	281	2,282	1,875	407	
1911.....	1,555	474	6,281	1,950	1,669	
1912.....	2,121	310	1,811	2,085	1,274	
1913.....	2,732	319	2,413	2,198	215	
1914.....	2,614	345	2,269	2,259	10	
1915.....	2,294	350	1,944	2,114	1,170	
1916.....	2,374	359	1,985	2,168	1,133	
10-year average.....	2,387	302	2,085	1,989	116	91

<sup>1</sup> Deficit.

As shown in a preceding table the capitalization of the Missouri Pacific-Iron Mountain on June 30, 1916, consisted of stock, \$82,844,720; bonds, \$277,777,620; total, \$360,662,340.

The proposed reorganization plan of the Missouri Pacific-Iron Mountain provides for the issue of securities and capitalization of the new company as follows:

Missouri Pacific common stock.....	\$82,839,585
New 5 per cent preferred stock or 5 per cent income bonds.....	76,751,635
New general mortgage 4 per cent bonds.....	44,399,292
New first and refunding bonds.....	46,923,150
Undisturbed bonded debt.....	128,458,620
<b>Total capitalization.....</b>	<b>379,372,282</b>

Increase in total capitalization.....	18,709,942
Bonded debt of old company.....	277,777,620
Bonded debt of new company if preferred stock is issued.....	219,781,062
Decrease in bonded debt.....	57,996,558

The reorganization of the Missouri Pacific-Iron Mountain is under the management of Kuhn, Loeb & Co. In the introductory statement to the reorganization plan, dated July 1, 1915, attention is called that during the next 5½ years provision must be made for the following obligations maturing within that period:

Missouri Pacific 3-year 5 per cent notes due June 1, 1916.....	\$24,845,000
Little Rock Junction Ry. first consolidated 6's, due Apr. 1, 1916.....	393,000
Missouri Pacific Co. collateral trust 5's, due Jan. 1, 1917.....	14,375,000
Central Branch Ry. first 4's, due Feb. 1, 1919.....	3,459,000
Missouri Pacific Co. collateral mortgage 5's, due Aug. 1, 1920.....	9,636,000
Missouri Pacific Co., Lexington Division, first 5's, due Aug. 1, 1920.....	650,000
Missouri Pacific Co. consolidated 6's, due Nov. 1, 1920.....	14,904,000
Equipment trust obligations maturing prior to 1920, about.....	5,705,000
Iron Mountain Co.'s indorsement on notes of the Texas & Pacific Ry. Co., dated June 1, 1914.....	1,741,000
Floating debt, about.....	3,600,000
<b>Total.....</b>	<b>79,308,000</b>

The reorganization managers found that the immediate cash requirements amounted to \$41,419,792, to be used for the following purposes: (a) \$24,845,000 to pay Missouri Pacific three-year gold notes; (b) \$3,861,000 to pay equipment trust obligations of the Missouri Pacific-Iron Mountain due prior to June 30, 1918; (c) \$12,713,792 to provide funds for adjustment and payment of interest in respect of bonds and other obligations deposited under the plan, additional working capital for the new company, payment of current liabilities and reorganization expenses. The \$41,419,792 is to be raised by levying an assessment of \$50 per share on the outstanding \$82,839,585 of stock of the Missouri Pacific Railway Co. In exchange for the payment of \$50 per share, the stockholders are to receive \$41,419,792 of new general mortgage 4 per cent bonds, which are a lien on all the properties subject to the \$128,458,620 of undisturbed bonded debt and the new first and refunding 5 per cent bonds to be issued, and in addition thereto \$82,839,585 of stock in the new company. In other words, upon the payment of the \$50 assessment the new company will issue its common stock in exchange for the common stock of the old Missouri Pacific, the exchange to be effected on a par for par basis.

The undisturbed securities, amounting to \$128,458,620, consist of (a) \$110,281,120 of Iron Mountain bonds, (b) \$15,240,500 of Missouri Pacific bonds, (c) \$2,937,000 of equipment obligations.

All of the bonds of the Iron Mountain except \$29,423,000 of first and refunding 6 per cent 40-year bonds due July 1, 1952, of which the Missouri Pacific owns \$25,248,000, remain outstanding. The Missouri Pacific bonds undisturbed consists of the following: (a) \$6,996,000 Pacific Railroad (of Missouri) first fours due August 1, 1938; (b) \$2,573,000 of Pacific Railroad (of Missouri) second fives, due July 1, 1938; (c) \$3,828,000 of Missouri Pacific Railway Co. third fours, due July 1, 1938; (d) \$237,500 Pacific Railroad (of Missouri), Carondelet Branch, first four-and-a-halves, due October 1, 1938; (e) \$800,000



Pacific Railroad (of Missouri), St. Louis city real estate, fives, due May 1, 1838; (f) \$806,000 Verdigris Valley Independence & Western Railroad Co. first fives.

All of the securities maturing within five and one-half years (gold notes to be paid in cash) are taken care of by the reorganization plan.

The new securities are to be distributed as follows:

Amount.	Existing securities description.	New first and refunding mortgage 5 per cent bonds.		New general mortgage 4 per cent bonds.		New 5 per cent preferred stock or 5 per cent income bonds.	
		Per cent.	Amount.	Per cent.	Amount.	Per cent.	Amount.
\$14,904,000	Missouri Pacific consols, first 6s.....	110	\$16,394,400				
14,375,000	Missouri Pacific collateral trust 5s of 1917.....	100	14,375,000				
9,636,000	Missouri Pacific collateral mortgage 5s of 1920.....	100	9,636,000				
37,255,000	Missouri Pacific gold loan 4s.....					100	\$37,255,000
29,806,000	Missouri Pacific first and refunding 5s.....					100	29,806,000
650,000	Missouri Pacific, Lexington Division, first 5s.....					100	650,000
3,972,000	Kansas & Colorado Pacific 6s.....					100	3,972,000
3,459,000	Central Branch 4s.....			50	\$1,729,500	50	1,729,500
2,500,000	Central Branch Union Pacific 4s.....			50	1,250,000	50	1,250,000
520,000	Leroy & Caney Valley first 5s.....					100	520,000
1,024,000	Kansas City Northwestern 5s.....					100	1,024,000
500,000	Booneville, St. Louis & Southern 5s.....					100	500,000
4,175,000	St. Louis, Iron Mountain & Southern Ry. first and refunding 6s.....	105	4,383,750				
393,000	Little Rock Junction first consols, 6s, guaranteed by St. Louis, Iron Mountain & Southern Ry. Co.....	100	393,000				
1,741,000	Texas & Pacific notes indorsed by Iron Mountain Co.....	100	1,741,000				
82,839,585	Missouri Pacific stock outstanding <sup>1</sup> .....			50	41,419,792		
45,135	St. Louis, Iron Mountain & Southern Ry. stock outstanding.....					100	45,135
	Total.....		46,923,150		44,399,292		76,751,635

<sup>1</sup> The holders of stock in the Missouri Pacific Ry. Co. are entitled to receive \$82,839,595 (100 per cent) of common stock in the new company, as well as the \$41,418,792 (50 per cent) general mortgage bonds above mentioned of the new company, upon surrender of their existing stock and payment of assessment of \$50 per share.

The above distribution of new securities has been modified so that the bondholders of the Centran Branch and the Central Branch Union Pacific may exchange their holdings for new general mortgage 4 per cent bonds instead of exchanging the same for new general mortgage 4 per cent bonds and preferred stock, as indicated above.

The reorganization managers alleged that the capitalization of this railway system if the proposed reorganization plan is put into effect will not be increased except for (a) new money in excess of the amount to be used in paying existing obligations; (b) premiums aggregating \$1,699,150 on refunding into new 5 per cent bonds of the consolidated first-mortgage 6 per cent bonds of the Missouri Pacific Co. and the first and refunding mortgage 6 per cent bonds of the Iron Mountain Co.; (c) the acquisition of the \$1,741,000 Texas & Pacific notes indorsed by the Iron Mountain.

The reorganization managers report that the reorganization plan accomplishes a reduction in fixed interest-bearing obligations amounting to \$60,552,558. The fixed charges will be reduced by \$3,580,772. The fixed interest-bearing obligations per mile of road will be reduced from \$39.996 to \$31.357, or by the sum of \$8,639.

The principal advantages of the reorganization plan, in the opinion of the bankers, are the following:

(a) Provision for new money, the payment or refunding of the obligations maturing during the next few years, and the consolidation into large issues of various minor bond issues. The minor bond issues have at present but a limited market, which affects their saleability and, as a consequence, tends to injure the credit of the company, whereas the new issues should command a ready and active market.

(b) Fixed charges so reduced as to come well within the earnings of the system even under the adverse conditions prevailing during the past two years.

(c) Reduction in the amount of fixed interest-bearing securities by over \$60,000,000.

(d) The new first and refunding mortgage, constituting, as it will, a lien upon the entire Missouri Pacific-Iron Mountain System, subject to prior liens aggregating only about \$18,328 per mile upon the completion of the readjustment, affords a security which, it is believed, will not only meet the requirements of the present plan but can be advantageously marketed, as occasion may require, to provide for obligations of later maturities and for the comparatively moderate expenditures which will be required from year to year for improvements, betterments, and additions. On the basis of the earnings for the fiscal year ended June 30, 1915, the net income after meeting prior lien charges is nearly three times the interest on the new first and refunding mortgage 5 per cent bonds, and the balance then available is nearly two and one-half times the interest on the new general mortgage 4 per cent bonds.

(e) The reestablishment of the company's credit and the anticipated strengthening of the company's position.

On June 1, 1917, the properties of the Missouri Pacific-Iron Mountain were transferred to Missouri Pacific Railroad Co. and the receivers discharged.

Referring to the receivership of the Missouri Pacific-Iron Mountain, the Commercial and Financial Chronicle, in its issue of January 30, 1917 (vol. 104, p. 2641), says in part:

"The receivership, which has now given place to the reorganized company, has been unique in its freedom from litigation (although six mortgages were foreclosed) and particularly in that no receiver's certificates have been issued. During the receivership, which lasted 1 year and 10 months, the receiver, besides providing for unusually heavy maintenance expenses, was authorized by the court to expend nearly \$10,000,000 for improvements and new equipment.

"As a result of the reorganization about \$69,000,000 of the old bonds have been converted into 5 per cent preferred stock, and the annual fixed charges have been reduced by over \$3,000,000. The reorganization provided the funds by which was retired the \$25,000,000 secured-note issue, which was created in 1911 and constituted an insuperable obstacle to the proper financing of the old company.

"In addition, the reorganization has provided for the current cash requirements of the new company and for the consolidation into large issues of various minor bond issues which had but a limited market and were not readily saleable—characteristics which injured the credit of the old company, whereas the new issue has created a ready and active market."

The stock of the Missouri Pacific Railroad Co., both common and preferred, has been lodged under a five-year voting trust, of which Otto H. Kahn, James & Wallace, and Robert Windsor are voting trustees.

The syndicate which underwrote the \$46,000,000 cash requirements of the Missouri Pacific-Iron Mountain reorganization has been closed, the members thereof realizing a profit of 3 per cent, which represents a distribution of \$1,380,000.

RECEIVERSHIP OF MISSOURI, OKLAHOMA & GULF RAILWAY Co.; MISSOURI, OKLAHOMA & GULF RAILROAD Co.; AND MISSOURI, OKLAHOMA & GULF RAILWAY OF TEXAS.

Missouri, Oklahoma & Gulf Railway Co. was incorporated October 24, 1904, in Oklahoma; the Missouri, Oklahoma & Gulf Railroad Co. on December 11, 1911, in Oklahoma; and Missouri, Oklahoma & Gulf Railway of Texas under the laws of Texas. The last-named company owns but 18 miles of road.

Wm. Kenefick, of the Kenefick Construction Co., of Kansas City, was the moving spirit back of this enterprise. Boston and French bankers furnished the necessary funds. The completed plans called for the construction of a line of railway from Kansas City to the Gulf of Mexico. The initial construction was begun in Oklahoma to open the Henryetta and Lehigh coal fields.

The miles of road owned and operated by the three companies on June 30, 1916, is reported as follows:

		Miles.
A. Missouri, Oklahoma & Gulf Railway Co.:		
Wagoner via Muskogee and Henryetta to Red River, Okla-----		205.30
Denver to Coalton, Okla-----		9.00
Arkansas Junction to Lowerre, Okla-----		2.41
Bromide Junction to Bromide, Okla-----		4.00
Total-----		220.71
Wagoner, Okla., to Baxter, Kans-----		98.26
C. Missouri, Oklahoma & Gulf Railway of Texas:		
Denison to Carpenters Bluff, Tex-----		18.00
Total owned by three companies-----		336.97
Operated under trackage contracts:		
St. L.-S. F., Baxter Springs, Kans., to Ruth, Mo-----		14.4
Mo. Pac. Ry., Ruth to Joplin, Mo-----		.96
Grand total operated-----		352.33

The same interests control all three of the companies, and their finances are so interwoven that they may be considered one system.

The Missouri, Oklahoma & Gulf Railway, organized in 1904, was to build a line from Wagoner, Okla., to Denison and Sherman, Tex.

The Missouri, Oklahoma & Gulf Railroad Co., organized in 1911, was to build lines from (a) Henryetta, Okla., to Oklahoma City; (b) Wagoner, Okla., to Joplin, Mo.; (c) Denison to Dallas and Fort Worth, Tex. Later the Missouri, Oklahoma & Gulf Railway of Texas was organized to build the Texas lines. Neither of the companies completed all its projected lines.

On June 30, 1916, the companies reported bonded debt as follows:

A. Missouri, Oklahoma & Gulf Railway Co.:		
First gold fives-----		\$7,007,000
Second gold fives-----		1,467,000
B. Missouri, Oklahoma & Gulf Railroad Co.:		
First mortgage fives-----		10,665,200
C. Missouri, Oklahoma & Gulf Railway of Texas:		
First mortgage fives-----		350,000
Total bonds-----		19,489,200
Equipment notes-----		523,025
Baldwin Locomotive Works 6 per cent notes-----		66,506
Receiver's certificates-----		1,500,000
Total debt-----		21,578,731

Excluding the equipment notes and the receiver's certificates, the bonded debt aggregates \$55,300 per mile.

The payment of interest on all bonds was unconditionally guaranteed until November 1, 1913, by the Wm. Kenefick Co., of Kansas City, Mo.

The payment of the Texas Co. bonds is guaranteed by the Missouri, Oklahoma & Gulf Railroad Co.

On December 11, 1913, President William Kenefick was appointed temporary receiver for properties of Missouri, Oklahoma & Gulf Railway, and Missouri, Oklahoma & Gulf Railroad. The petition for the appointment of a receiver was filed by Baldwin Locomotive Works. On January 12, 1914, L. S. Posner, of New York, and Alexander New, of Kansas City, Mo., were appointed permanent receivers.

The Railway Age Gazette, in its issue of January 2, 1914 (vol. 56, p. 5), referring to the receivership of the companies under consideration, says, in substance: Missouri, Oklahoma & Gulf Railroad was promoted by a Boston banking house and its securities largely placed in Boston and France. Boston bankers, apparently lost heart in their enterprise more than a year or two ago, and the property was being carried largely by French banking interests. The failure in Paris of one of the banks interested in the property was given as the immediate cause of the receivership. An attempt was made, however, to raise new capital in New York before receivership took place, but was unsuc-



cessful. It had been necessary to practice rather strict economy in the maintenance for two or three years, so that its physical condition was not very high class, and on the greater part of its business it had to compete with older and better established and better maintained roads which could offer superior services. Time only will prove whether the road was justified at all in an economic sense.

That the Boston interests withdrew their support is shown by a statement issued by the directors of the Oklahoma City Terminal Railway, organized to handle the bonus subscriptions for terminals. The directors of the terminal company demanded that the officials of the railroad make a showing on or before October 15, 1913, that the line will be constructed between Oklahoma City and Henryetta, or else the subscriptions to the bonus fund would be returned to the subscribers. The statement (Com. and Fin. Chron., vol. 97, p. 887) given out by the directors of the Oklahoma City Terminal Railway reads in part as follows:

"By the time litigation was disposed of, conditions both in Europe and in this country, to say nothing of the poor crop conditions in Oklahoma, had become such as to make it practically impossible to raise more money in France, where the M., O. & G. was financed. Announcement was made from time to time by officials of the M., O. & G. that they had not abandoned the intention of building to Oklahoma City, but were only waiting for the Balkan War situation and other complications in Europe to clear up so that work could be started."

Referring to the appointment of receivers, the Commercial and Financial Chronicle, in its issue of December 20, 1913 (vol. 97, p. 1823), quoting in substance from the Kansas City Star, says:

"Alexander New, chief counsel for the railroad, said to-day that the embarrassment was due to the failure of the Banque Franco-Americano of Paris, which financed the road. The bank sold most of the bond issue of between twelve and thirteen million dollars.

"Mr. Kenefick has worked 10 years on the project. He is a construction contractor. The trains are now being operated over 335 miles of the road's own tracks. It extends from Denison, Tex., to Baxter, Kans., on its own tracks, and by traffic arrangements the trains run from Sherman, Tex., to Joplin. It is projected to extend from Kansas City to the Gulf.

"The railway runs through a comparatively new but rapidly developing country. The construction is said to be of the best and with the lowest grade of any line running through that part of the Southwest. By reason of this road, ranches have been converted into farming country and settled up, and a number of good, enterprising towns have sprung up along the line. Good coal is being mined on different parts of the line.

"Plans for reorganization have been under way several months, and it is believed that they will be consummated in a very short time and construction resumed. It is expected that the road ultimately will be built to Dallas, Tex., to Oklahoma City, and to Kansas City.

"Mr. Kenefick has been in Europe two months. The receivership in nowise affects a number of other enterprises now being constructed and developed by him."

In the petition for the appointment of a receiver, the indebtedness of the company is reported as follows:

Railway first-mortgage bonds	\$7,007,000
Railway second-mortgage bonds	1,467,000
Railroad first-mortgage bonds	10,655,200
Texas company first-mortgage bonds	350,000
Kansas company first-mortgage bonds	75,000
Baldwin company	205,822
Bills payable	179,648
Vouchers audited but unpaid	144,511
Wages	54,362
Taxes, 1912-13	59,501
Taxes, 1913-14	57,236
Coal bills	116,157
Miscellaneous	4,000

In addition there were suits, aggregating over \$175,000, and judgments in appeal amounting to \$47,237.

In its issue of January 17, 1914, the Commercial and Financial Chronicle (vol. 98, p. 236) reports that the petition on which the receivership was based states that the system is in need of sums aggregating \$4,720,000 for properly equipping and extending the road, to wit:

For ballasting and new ties.....	\$20,000
For constructing shops.....	100,000
For industrial tracks and spurs.....	20,000
For extending the Dewar spur farther into the coal-mining districts.....	125,000
For completing shops at Muskogee.....	100,000
For constructing the western branch from Henryetta.....	4,125,000

The earnings of the company have been inadequate to pay operating expenses and taxes, let alone the payment of interest.

Moody, in his Manual of Railroads and Corporation Securities, shows the revenues and expenses as follows:

Year.	Gross earnings.	Operating expenses and taxes.	Net earnings.	Other income.	Interest charges, etc.	Deficit.
1910-11.....	\$758,151	\$762,956	\$4,805		\$351,463	\$356,268
1911-12.....	895,774	896,236	462		538,873	539,335
1912-13.....	1,084,946	1,073,469	11,477		454,120	442,643
1913-14.....	1,177,560	1,258,722	81,162	\$12,482	476,186	544,866
1914-15.....	1,174,211	1,350,711	176,500	19,286	565,685	722,899
1915-16.....	1,416,301	1,505,027	88,726	33,237	671,567	727,056

A mere glance at the preceding table reveals at once the difficulties of these companies. The earnings so far do not justify the expenses incurred in constructing the lines.

It appears that to date (Sept. 1, 1917) no reorganization plan has been submitted to the stockholders and creditors.

#### RECEIVERSHIP OF THE NEW ORLEANS, MOBILE & CHICAGO RAILROAD CO. (PANAMA ROUTE).

New Orleans, Mobile & Chicago Railroad Co., hereafter referred to as the New Orleans company, was incorporated December 3, 1909, in Mississippi, Alabama, and Tennessee. It acquired the properties of the Mobile, Jackson & Kansas City Railroad Co. and Gulf & Chicago Railroad Co., sold at foreclosure sale on August 23, 1909. In 1911 control of the New Orleans company was acquired by the St. Louis & San Francisco Railroad Co. and the Louisville & Nashville Railway Co.

On December 19, 1913, President William F. Owen was appointed receiver. The property of the company was sold at foreclosure sale on August 18, 1915.

The subject matter of this report may be summarized under the following headings:

1. Reorganization in 1909.
2. Mileage owned and operated.
3. Appointment of receiver on December 19, 1913.
4. Revenues and expenses.
5. Assets and liabilities.
6. Reorganization plan dated March 24, 1915.

##### 1. REORGANIZATION IN 1909.

On September 8, 1908, the stockholders of the Mobile, Jackson & Kansas City Railway Co. ratified the merger of that company with the Gulf & Chicago Railway Co. On December 1, 1909, the properties of the Mobile, Jackson & Kansas City were acquired by the New Orleans, Mobile & Chicago Railroad Co., the properties of the former company having been sold at foreclosure sale. The old companies had a bonded indebtedness of \$8,061,400, consisting of \$4,000,000 of 5 per cent of Gulf & Chicago bonds and \$4,061,500 of Mobile, Jackson & Kansas City bonds. The reorganization plan, pursuant to which the New Orleans company was organized, provided that the bonds of the old companies

should be exchanged bond for bond issued by the new company. In addition the new company, or New Orleans company, was to issue to the bondholders preferred stock equivalent in amount to the face value of the three interest coupons attached to the new bonds, which matured on July 1, 1908, January 1, 1909, and July 1, 1909. Subsequently the plan was amended so that the interest coupon maturing on January 1, 1908, was paid in cash and the next four succeeding interest coupons were funded through the issue of preferred stock.

The reorganization plan of 1909 further called for the issue by the New Orleans company of \$8,073,800 par value of common stock to be exchanged for a like amount of common stock of other companies. The plan also levied a \$20 per share assessment upon the outstanding stock. Upon the payment of this assessment the stockholders received bonds of the new company, together with 3 per cent in cash on the bonds subscribed for and 20 per cent in preferred stock. To summarize, the capitalization of the New Orleans company immediately following the reorganization in 1909 consisted of the following:

(a) Common stock (authorized issue limited to \$25,000 per mile).....	\$25,000,000
(1) To be expended for old stock.....	\$8,073,000
(2) Available for treasury.....	2,001,200
(3) Balance unissued.....	14,925,800
(b) 6 per cent preferred stock (issue limited to \$5,000 per mile).....	5,000,000
(1) Issued to fund coupons.....	\$806,140
(2) Issued to purchase syndicate.....	153,426
(3) Available for treasury.....	1,055,434
(4) Remainder unissued.....	2,985,000
(c) First mortgage 50-year 5 per cent bonds (limited to \$30,000 per mile).....	30,000,000
(1) To be issued to refund old bonds.....	\$8,061,400
(2) To be sold to purchase syndicate.....	1,534,263
(3) Available for treasury.....	2,494,337
(4) Reserve for new mileage.....	17,910,000

A purchase syndicate, formed by those in control of the property, and consisting of Messrs. Berg, Wexler, McDonald, Stratton, et al., agreed to assume the entire floating debt of the old companies, aggregating \$1,534,262, accepting as security therefor \$1,534,263 of first mortgage bonds and \$153,426 of 6 per cent preferred stock of the New Orleans company. The purchase syndicate, it appears, also obligated itself to pay into the treasury of the new company \$500,000 in cash.

## 2. MILEAGE OWNED AND OPERATED.

On June 30, 1916, the New Orleans company owned and operated 402.39 miles of road, consisting of:

	Miles.
1. Mobile, Ala., to the terminus main line in Tennessee.....	368.83
2. Hattiesburg to Beaumont, Miss.....	27
3. Ellisville Junction to Ellisville, Miss.....	6.56
Total.....	402.39

In addition the company owned 84.32 miles of sidings.

In September, 1911, Douglas Fenwick & Co. offered bonds of the New Orleans company at 75 and interest. In February, 1912, the same investment brokers offered bonds of the New Orleans at 95. The increase in the price of the bonds was attributed to the control of the New Orleans company having been acquired by the St. Louis & San Francisco and the Louisville & Nashville. In its issue of October 21, 1911, the Commercial and Financial Chronicle (vol. 93, p. 1106) quoted Chairman B. F. Yoakum, of the St. Louis & San Francisco, as saying in substance:

"The St. Louis & San Francisco has increased its holding of stock in the New Orleans, Mobile & Chicago. Several years ago, says B. F. Yoakum, the Frisco purchased a small interest in the Mobile road, since which time the property has gone through reorganization and more than \$1,250,000 has been expended on the property, its terminal facilities, and equipment. This road serves Mobile, one of the most aggressive ports on the Gulf of Mexico, the traffic of which, both to and from, is increasing rapidly. The opening of the Panama Canal and the large increase in traffic of South and Central America



makes this new outlet important. The line's business is increasing monthly, although the general business is not up to the high standard of the property. With the Frisco as an outlet to Memphis and the territory of Oklahoma, Kansas, etc., both companies will be largely benefited. The lumber business, upon return of normal conditions, should add considerably to present traffic."

Upon retiring from the presidency of the New Orleans company, early in 1912, Mr. Berg said the plans of the company called for the extension of the road from Middleton, Tenn., to a point in Kentucky located on the Ohio River opposite Chaffa, Ill., a terminus of the Chicago & Eastern Illinois Railroad Co. The completion of this extension, together with the execution of a traffic agreement with the Chicago & Eastern Illinois, would have given the New Orleans company an entrance into Chicago over a 970-mile route extending from Mobile, Ala.

The promulgation of the extension plans of the New Orleans company, together with the acquisition of the control of that company by the St. Louis & San Francisco and the Louisville & Nashville, reflected favorably upon the selling prices of the bonds of the New Orleans company.

The proposed extension has not been constructed. In May, 1916, Judge Toulmin in the Federal district court at Mobile, authorized Receiver Owen to begin the construction of an extension from Middleton, Tenn., northerly to Jackson, Tenn., a distance of 24 miles, at an estimated cost of from \$700,000 to \$800,000.

### 3. APPOINTMENT OF RECEIVER.

On December 19, 1913, President William F. Owen was appointed receiver of the New Orleans company on the petition of Metropolitan Trust Co., of New York, as trustee under the first and refunding mortgage. The complaint alleged the nonpayment of interest coupons due January 1, 1913.

The inability of the company to finance its proposed extension to the Ohio River, the appointment of a receiver for the St. Louis & San Francisco, which owned one-half of the outstanding stock of the New Orleans company, disastrous floods of 1912 and 1913, all contributed to the financial difficulties of this company and caused the appointment of a receiver in 1913.

### 4. REVENUES AND EXPENSES.

The revenues and expenses of the New Orleans company, as shown by its annual reports, have been as follows:

#### *New Orleans, Mobile & Chicago Railroad Co. revenues and expenses.*

[Data from annual report.]

Year ending June 30—	Miles operated.	Gross revenues.	Operating expenses.	Ratio.	Net operating revenue.	Taxes, interest, etc.	Net income.
1906.....	401.61	\$1,083,692	\$773,761	71.4	\$309,931	\$429,774	<sup>1</sup> \$119,843
1907.....	401.61	1,558,851	1,426,950	91.8	127,261	535,586	<sup>1</sup> 408,325
1908.....	401.61	1,440,396	1,182,414	82.1	257,982	571,804	<sup>1</sup> 313,822
1909.....	402.75	1,525,833	1,023,729	67.1	502,104	554,438	<sup>1</sup> 52,334
1910.....	404.33	1,711,709	1,068,156	62.4	643,553	613,996	29,557
1911.....	404.33	1,826,135	1,080,447	59.1	745,688	662,124	83,564
1912.....	451.74	2,002,728	1,372,468	68.5	630,260	780,713	<sup>1</sup> 150,453
1913.....	534.68	2,490,052	1,761,975	70.8	728,077	1,026,973	<sup>1</sup> 298,896
1914.....	402.90	2,204,370	1,451,157	65.8	753,213	861,844	<sup>1</sup> 108,631
1915.....	402.90	1,774,473	1,320,686	74.4	450,787	833,862	<sup>1</sup> 327,895
1916.....	402.90	2,039,135	1,397,669	68.5	641,466	827,399	<sup>1</sup> 85,607

<sup>1</sup> Deficit.

NOTE.—Other income: 1915, \$54,180; 1916, \$100,326.

The increase in operating expenses from \$1,080,447 in 1911 to \$1,372,468 in 1912 and \$1,761,975 in 1913 is primarily due to the floods of those years. In 1912 the floods interfered with New Orleans and Memphis traffic for a period of 60 days.

The revenues and expenses per mile of road operated for the year ending June 30, 1916, are:

Operating revenues .....	\$5,061
Operating expenses .....	3,490
Net operating revenues .....	1,592
Net income .....	1,840
Taxes, interest, etc .....	2,054
Deficit .....	214

The interest accrued on the funded debt during 1916 amounted to \$1,694 per mile against net revenues per mile of \$1,592.

The earnings of the company have been inadequate to pay its fixed charges. The foregoing table shows taxes, interest, and other fixed charges for 1916 to have been lower than in any one of the three preceding years, yet the total of such charges per mile of road were \$2,054, or \$462 in excess of the net operating revenues.

In 1913 the taxes, interest, and other fixed charges per mile of road exceeded the net operating revenues by \$559; in 1914, by \$270; and in 1915, by \$950.

#### 5. ASSETS AND LIABILITIES.

On June 30, 1916, the New Orleans company reported its assets and liabilities as follows:

##### Assets:

Road and equipment .....	\$23,753,002
Miscellaneous physical property .....	57,819
Cash .....	598,062
Traffic, etc., balances .....	80,338
Agents and conductors .....	11,534
Materials and supplies .....	121,417
Miscellaneous accounts receivable .....	51,093
Other current assets .....	16,197
Security, issued or assumed .....	742,725
Interest and dividends receivable .....	431
Discount on funded debt .....	999,975
Unadjusted debits .....	21,745
Profit and loss .....	941,586
Total .....	27,395,924

##### Liabilities:

Capital stock .....	10,075,300
Bonded debt .....	13,646,500
Loans and bills payable .....	536,521
Traffic, etc., balances .....	
Vouchers and wages pay .....	137,414
Miscellaneous accounts payable .....	12,789
Matured interest unpaid .....	2,042,094
Unmatured interest accrued .....	467,000
Tax liability .....	27,393
Operating reserves .....	9,479
Accrued depreciation .....	431,454
Other unadjusted debits .....	9,980
Total .....	27,395,924

Of the \$10,075,300 of stock reported outstanding in the foregoing balance sheet \$1,500 of common and \$740,550 of preferred stock is held in the company's treasury. The stock actually outstanding amounts to \$9,333,250. The bonded debt outstanding amounts to \$13,646,500. The capitalization per mile of road aggregates:

(a) Stock .....	\$23,165
(b) Bonds .....	33,870
Total .....	57,035

## 6. REORGANIZATION PLAN.

The reorganization plan dated March 24, 1915, calls for the following proposed capitalization:

(a) 6 per cent preferred stock cumulative after three years	\$11,344,333
(b) Common stock	10,820,984
(c) New first-mortgage bonds	2,500,000

Of the new first-mortgage bonds \$33,000 will be used to retire the underlying \$33,000 of Mobile, Jackson & Kansas City Railroad first-mortgage 5 per cent bonds, dated 1896; \$62,662 of the new bonds will be used to pay equipment trust obligations; and the balance to pay for extensions.

The outstanding \$13,613,200 first and refunding mortgage bonds are to be exchanged for:

(a) New preferred stock	\$11,344,333
(b) Common stock	10,209,900

Total	21,554,233
-------	------------

The common stock to be issued in exchange for first and refunding bonds includes \$611,084 of stock which may be issued to pay floating indebtedness.

Of the common stock \$4,674,775 is offered to the present stockholders at \$20 per share.

The preferred stockholders upon paying \$10 per share on their stock will be entitled to receive \$637,875 of new common stock, whereas the common stockholders upon paying \$10 per share on the present stock will receive \$3,036,900 of common stock of the new company.

In the opinion of the reorganization committee the most urgent need of the new company is a suitable northern terminus. For this purpose it is suggested that the line be extended from Middleton, Tenn., northward to Jackson. This extension would afford connections with the Illinois Central; the Louisville & Nashville, the Nashville, Chattanooga & St. Louis; and the Mobile & Ohio River. The estimated cost is reported at \$1,275,000. As indicated on a preceding page, Receiver Owen has been authorized to proceed with the construction of this extension.

The cash requirements of the company are reported at \$845,662. The cash thus obtained is to be applied to the following purposes:

1. To pay bonds of Mobile, Jackson & Kansas City Railroad	\$33,000
2. To pay current liabilities	200,000
3. To pay reorganization expenses	250,000
4. For new working capital	300,000
5. To pay equipment trust obligations	62,662

The stock of the new company is to be held for a period of 5 years under a voting trust agreement. The trustees under this voting trust are to be John W. Platten, Frederick Wm. Scott, Samuel S. Campbell, Morris Healy-Hutchinson, and A. H. S. Post.

## RECEIVERSHIP OF NEW ORLEANS, TEXAS &amp; MEXICO RAILROAD CO.

New Orleans, Texas & Mexico Railroad Co., hereinafter referred to as the New Orleans company, is the successor of the Colorado Southern, New Orleans & Pacific Railroad Co., organized under the laws of Louisiana on May 8, 1905. The name of the company was changed on May 21, 1910.

The New Orleans company was controlled through stock ownership by the St. Louis & San Francisco. In turn it controlled the St. Louis, Brownsville & Mexico Railway, Beaumont, Sour Lake & Western Railway, and Orange & Northwestern Railroad. These three companies, together with the New Orleans company, constitute what was known as the New Orleans, Texas & Mexico Division of the St. Louis & San Francisco Railroad. Reference will hereafter be made to intercorporate relations between the St. Louis & San Francisco and the New Orleans company.

On July 9, 1913, John D. O'Keefe was appointed receiver for the New Orleans company.



In its tentative valuation of November 21, 1916, the Interstate Commerce Commission finds that the New Orleans company owns and operates the following mileage:

Main line:	Miles.
Barge transfer, Anchorage to De Quincy-----	137. 63
Second track-----	. 62
Branch lines:	
Eunice to Crowley-----	22. 37
Erwinsville to Mix-----	12. 886
Yard tracks and sidings-----	54. 893
	<hr/> 228. 399
Lines operated under trackage rights:	
New Orleans Terminal Co.—	
New Orleans to Shrewsbury-----	6. 84
Yazoo & Mississippi Valley R. R. Co. and Illinois Centrol R. R. Co.—	
Shrewsbury to Baton Rouge-----	87. 81
Kansas City Southern Ry. Co.—	
De Quincy to Louisiana-Texas State line (Sabine River)-----	18. 50
	<hr/> 113. 15
Total mileage operated-----	<hr/> 341. 549

"On June 30, 1914, the New Orleans, Texas & Mexico was operating a line extending from New Orleans in a northwesterly and westerly direction, through Shrewsbury, Kenner Junction, Baton Rouge, Anchorage, and De Quincy to the Louisiana-Texas State line at the Sabine River, a distance of 250.78 miles, exclusive of the distance across the Mississippi River from Baton Rouge to Anchorage. Of this mileage, 113.15 were operated under trackage rights as follows: From New Orleans to Shrewsbury, over the line of the New Orleans Terminal Co.; from Shrewsbury to Baton Rouge, over the line of the Yazoo & Mississippi Valley Railroad Co.; and from De Quincy to the Sabine River, over the line of the Kansas City Southern Railway Co. It also operated its trains over a second track of the Illinois Central Railroad Co. from Shrewsbury to Kenner Junction, a distance of 5.45 miles, and transferred them by boat or barge across the Mississippi River between Baton Rouge and Anchorage."

Subsequent to the appointment of a receiver, the bondholders committee appointed Y. Van Den Berg, an engineer, to examine the properties of the New Orleans company and its affiliated companies. In his report of October, 1913, Van Den Berg called attention to the following difficulties confronting each one of the four roads (Commercial and Financial Chronicle, vol. 101, p. 1663):

- (a) St. Louis, Brownsville & Mexico—
  - (1) Inadequate maintenance.
  - (2) Excessive transportation cost.
  - (3) Excessive hire of equipment.
- (b) Beaumont, Sour Lake & Western Railway—
  - (1) Lack of normal maintenance.
  - (2) Greatly excessive transportation cost.
  - (3) Excessive charges for "joint tracks and yards," the facilities offered by the Kansas City Southern at Beaumont being inadequate, and the Beaumont, Sour Lake & Western being possibly entitled to refunds on fixed charges for trackage rights to the Sabine River.
- (4) Hire of equipment charges accumulated, owing to its owning no equipment.
- (5) Excessive rentals, amounting for the fiscal year 1913, to 14.19 per cent of the operating revenue.
- (6) Insufficient traffic-department organization.
- (c) New Orleans, Texas & Mexico Railroad—
  - (1) More or less haphazard maintenance.
  - (2) High transportation cost.
  - (3) Excessive maintenance and operating cost of joint yards and tracks and maintenance cost of joint equipment.
  - (4) Excessive rentals which during the fiscal year 1913 amounted to 9.06 per cent of operating revenue.

## (5) Lack of sufficient traffic department organization.

## (d) Orange &amp; Northwestern—

(1) Expenses arbitrarily and unfairly apportioned between it, the Beaumont, Sour Lake & Western, and the New Orleans, Texas & Mexico.

(2) Standard scale of wages, although a lower scale ought to be available, as the line is only a short logging and lumber road.

## (3) High operating costs.

Engineer Van Den Berg further reports that there is nothing fundamentally wrong with any of the properties comprising the so-called New Orleans, Texas & Mexico Division of the St. Louis & San Francisco. The companies, however, should expend during the next three years the following amounts:

Name of company.	Betterments.	Equipment.
New Orleans, Texas & Mexico.....	\$1,395,852	\$1,252,200
St. Louis, Brownsville & Mexico.....	3,219,240	2,235,000
Beaumont, Sour Lake & Western.....	532,285	
Orange & Northwestern.....	68,000	492,000
Total.....	5,215,377	3,979,200

In its tentative valuation, the Interstate Commerce Commission found the capitalization of the New Orleans company on June 30, 1914, to have been as follows:

Capital stock.....	\$2,000,000.00
St. Louis & San Francisco—New Orleans, Texas & Mexico	
Division, first-mortgage bonds.....	28,582,930.01
Equipment trust notes.....	1,596,478.58
Receiver's certificates.....	2,000,000.00
Nonnegotiable debt due to St. Louis & San Francisco R. R. Co....	6,758,622.83
Total.....	40,938,031.42

The commission finds the original cost of the road, according to the books of the New Orleans company, to have been \$12,194,231.13, divided as follows:

Road.....	\$6,665,374.98
Equipment.....	4,085,024.49
General expenditures.....	1,443,831.66
Total.....	12,194,231.13

The commission takes exception to the \$1,196,661.16 included in the cost of equipment, said amount representing the cost of 992 refrigerator cars acquired by the New Orleans company, but used by the St. Louis & San Francisco. Exception is also taken to \$849,608.88 included under cost of road, said amount representing profit realized by the Gulf Construction Co. Deducting the last two amounts, the commission finds that the cost of the road and equipment is \$10,147,961.09, instead of \$12,194,231.13.

In addition to the investment in road and equipment, the records of the New Orleans company show that it has invested \$21,368,179.49 in stocks, bonds, receiver's certificates, and notes of affiliated carriers.

The annual report of the New Orleans company for the year ending June 30, 1916, shows that it owned the following securities:

Name of company.	Stock.	First-mortgage bonds.	Notes.
St. Louis, Brownsville & Mexico R. R.....	\$500,000	\$12,913,342	\$640,000
Beaumont, Sour Lake & Western.....	85,000	2,057,824	
Orange & Northwestern.....	35,000	1,067,947	

The Interstate Commerce Commission finds the tentative value of the New Orleans company's common-carrier properties as follows:

	Cost of reproduction.	
	New.	Less depreciation.
Owned and used by New Orleans, Texas & Mexico R. R. Co. for common-carrier purposes:		
Road.....	\$4,407,868	\$3,834,237
Equipment.....	2,801,147	2,240,368
General expenditures.....	459,960	397,379
Total used by New Orleans, Texas & Mexico R. R. Co. for its purposes as a common carrier.....	7,668,975	6,471,984
Equipment owned by New Orleans, Texas & Mexico R. R. Co., but used by St. Louis & San Francisco R. R. Co.....	1,196,661	1,100,902

The properties of the New Orleans company have been sold at foreclosure to New Orleans, Texas & Mexico Railway Co. The reorganization plan, dated August 25, 1915, calls for the issue of securities by the new company as follows:

Common stock .....	\$15,000,000
Noncumulative 5 per cent income bonds.....	15,000,000
First-lien gold bonds, series "A," 6 per cent.....	6,000,000
Total .....	36,000,000

The new securities are to be disposed of as follows:

First-lien gold bonds:	
To be sold for cash at par.....	5,870,000
To be issued without restriction for the purposes of new company .....	130,000
Total .....	6,000,000

Noncumulative income bonds:	
To assenting bondholders to the extent of 40 per cent of the face value of their deposited bonds.....	11,740,000
To assenting bondholders (or underwriting syndicate) who subscribed for first-lien gold bonds to the amount of 50 per cent of the face value of bonds so subscribed for.....	2,935,000
To be held in the treasury of the new company.....	325,000
Total .....	15,000,000

Common stock:	
To depositing bondholders assenting to the plan stock to an amount of 25 per cent of the face value of their deposited bonds.....	7,337,500
To assenting bondholders (or underwriting syndicate) who subscribe for first-lien bonds an amount equal to 125 per cent of bonds subscribed.....	7,337,500
For reorganization purposes.....	325,000
Total .....	15,000,000

To illustrate, each holder of a \$1,000 bond will be permitted to subscribe for \$200 of first-lien gold bonds and will be entitled to receive \$500 of income bonds and \$500 par value of stock, making a total of \$1,200 of new securities in exchange for the \$1,000 of old bonds.

If the holder of an old bond does not subscribe for first-lien gold bonds, he will receive \$400 in income bonds and \$250 in stock, or a total of \$650.

The reorganization plan permits the depositing bondholders to subscribe at par for first-lien gold bonds to the extent of 20 per cent of their deposited bonds. Any portion of the income bonds not delivered to the subscribing



bondholders or any portion of the stock not issued to the subscribing bondholders shall be delivered to the underwriting syndicate, which, in addition, is to receive a cash commission equal to  $2\frac{1}{2}$  per cent of the face value of the bonds underwritten.

The cash obtained by the new company through the issue of its first lien gold bonds is to be applied as follow:

To payment of receiver's certificates and interest.....	\$2, 928, 000
To payment of preferred claims and receiver's indebtedness as of Mar. 30, 1915.....	376, 000
Cash commission to syndicate.....	146, 750
To be applied to payment of expenses incidental to foreclosure and reorganization.....	350, 000
To provide working capital for new company and funds for payment of interest for two years on \$6,000,000 first-lien gold bonds, Series "A," and equipment trust payments.....	2, 069, 250
<b>Total</b> .....	<b>5, 870, 000</b>

The reorganization plan was strongly indorsed by Engineer Van Den Berg, who in his statement of July 20, 1915, said that the financial conditions of the property had severely suffered from lack of maintenance; that its earning capacity had not been developed; and that the net results were impaired by high transportation costs, excessive rentals, and hire of equipment charges. (Commercial and Financial Chronicle, vol. 101, p. 768.)

The reorganization plan wiped out completely the \$2,000,000 capital stock of the old company and converted the \$28,582,930 of first mortgage  $4\frac{1}{2}$  per cent bonds into common stock and noncumulative 5 per cent income bonds. It provided for an issue of \$6,000,000 6 per cent first mortgage bonds. The fixed charges were thus reduced from \$1,286,000 to \$360,000. If earned the interest on the income bonds will amount to \$750,000.

According to the settlement with the St. Louis & San Francisco, the new company is to receive from the Frisco:

1. Cash.....	\$469, 000
2. 6 per cent income bonds.....	460, 000
3. 6 per cent preferred stock.....	586, 000
4. First mortgage 6 per cent bonds of San Benito & Rio Grande.....	953, 735
5. Stock of San Benito & Rio Grande.....	70, 000

The St. Louis & San Francisco, under an agreement with the New Orleans company dated April 14, 1906, requested that company to reduce its capital stock from \$12,000,000 to \$2,000,000, and sell \$1,994,000 of its stock and \$8,500,000 of its  $4\frac{1}{2}$  per cent bonds, dated April 18, 1906, due November 18, 1925, to the Frisco for \$7,077,000.

The Frisco used the New Orleans company as a distributor of funds advanced by it. Prior to March 1, 1910, the advancements by the Frisco to the New Orleans company amounted to \$25,827,677.49. These advances were for construction purposes and to furnish funds to finance extension and construction work on the Beaumont, Sour Lake & Western, the Orange & Northwestern, and to acquire the securities of the St. Louis, Brownsville & Mexico Railway. A summary of the advances to March, 1910, shows the following:

Advances for construction.....	\$4, 453, 794. 25
Interest on the New Orleans company's notes.....	466, 980. 65
Advances to acquire bonds of Beaumont Co. and Orange Co.....	574, 354. 87
Interest on the New Orleans company's bonds, Sept. 1, 1909, to Mar. 1, 1910.....	191, 250. 00
Advances to redeem equipment trust, series "A," with interest...	518, 400. 00
Frisco 5-year $4\frac{1}{2}$ per cent notes issued to obtain funds of New Orleans company.....	7, 500, 000. 00
Payment to St. Louis Union Trust Co. for account of New Orleans company to acquire stock and bonds of St. Louis, Brownsville & Mexico Railway.....	12, 122, 897. 72
<b>Total</b> .....	<b>25, 827, 677. 49</b>

To reimburse itself for these advances, the Frisco, on May 17, 1910, authorized an issue of bonds of \$50,000,000, dated March 1, 1910, known as the Frisco-New Orleans, Texas & Mexico Division first mortgage 30-year bonds. These bonds are a liability of the Frisco and in addition are a direct lien on

the properties of the New Orleans company and an indirect lien on the properties of the St. Louis, Brownsville & Mexico Railway, the Beaumont, Sour Lake & Western, and the Orange & Northwestern, stock and bonds of these companies having been acquired and deposited with the trustee as collateral security under its mortgage. Of these bonds, \$26,000,000 was authenticated and delivered to the Frisco to reimburse it for advances made to the New Orleans company. (Interstate Commerce Commission reports, vol. 29, p. 204.)

The Interstate Commerce Commission found that capitalization of the New Orleans company on May 31, 1913, consisted of \$2,000,000 of stock, \$28,582,930.01 of bonds, and \$1,887,561.70 of equipment trust certificates, making a total of \$32,470,491.71. In addition to this the New Orleans company owed the Frisco notes aggregating \$4,886,489.50. The capital assets at the same period amounted to \$32,946,816.96, divided as follows:

Cost of road	\$11,544,792.21
Cost of equipment	3,903,425.93
Cost of stock owned	2,583,354.58
Cost of bonds owned	14,915,244.24
Total	32,946,816.96

The operating deficits of the New Orleans company are reported as follows:

1910	\$427,926.89
1911	369,417.03
1912	502,982.73
1913, to May 31	314,284.37

The financial statement published in Moody's Analyses of Railroad Investments cover the operations of New Orleans, Texas & Mexico Railroad Co. and affiliated companies, and for that reason are omitted from this report.

#### RECEIVERSHIP OF NEW MEXICO CENTRAL RAILROAD CO.

This railroad enterprise was fostered by a group of Pennsylvania capitalists operating under the name of Pennsylvania Development Co. Among those interested were Francis J. Torrance; Arthur Kennedy, of Pittsburgh; and T. Lee Clark, of Allegheny. Their New Mexico associates were M. H. Andrews, of Albuquerque, and W. S. Hopkins, of Hillsboro, N. Mex.

Santa Fe, Albuquerque & Pacific Railway Co., the predecessor in interest of the existing company, was organized under the laws of New Mexico in 1900. In 1902 this company was reorganized under the name of the Santa Fe Central Railroad Co. The present name was assumed in August, 1908. On September 3, 1908, the company was consolidated with the Albuquerque Eastern Railway.

In its issue of July 26, 1902, the Commercial and Financial Chronicle (vol. 75, p. 186) reported that the Santa Fe Central Railway had executed a \$2,500,000 mortgage to the Pittsburgh Trust Co.

The road constructed by the Santa Fe Central extends from a junction with the Denver & Rio Grande and the Santa Fe at Santa Fe south to Torrance, N. Mex., a junction with the Rock Island and El Paso & Southwestern Railroad Co., a distance of 117 miles. The altitude of this line of railway varies from 6,125 to 7,000 feet.

Subsequent to this construction the parties interested in the Santa Fe Central Railway, but what is now the New Mexico Central Railway Co., organized the Albuquerque Eastern Railway; the Durango, Albuquerque & Gulf; the Colorado, New Mexico & Gulf; and the Torrance, Roswell & Gulf.

The Albuquerque Eastern Railway Co. was incorporated to build a line from Moriarity on the Santa Fe Central to Albuquerque, N. Mex., a distance of 47 miles; the Durango, Albuquerque & Gulf from a point near Algodones on the Santa Fe northward into Colorado 200 miles; the Colorado, New Mexico & Gulf from Durango, Colo., to connect with the Durango, Albuquerque & Gulf at the Colorado-New Mexico State line and the Torrance, Roswell & Gulf from Torrance on the Santa Fe Central to Roswell, a distance of 125 miles. None of these companies, excepting the Albuquerque Eastern Railway have constructed a portion of their projected line.

In 1905, as a result of the defalcation and suicide of T. Lee Clark, cashier of the Enterprise National Bank, of Allegheny, Pa., construction of the various New Mexico lines was discontinued. It was generally understood that the bank defaulted because of its heavy investments in the New Mexico enterprise.

While the officers of the railway and the Pennsylvania Development Co. strenuously denied this, nevertheless the success of the railway enterprise became very doubtful as soon as the Comptroller of the Currency closed the doors of the Enterprise National Bank.

In 1906 it was rumored that C. W. and E. R. Tallmadge, of Chicago, had arranged for the purchase of these properties. The sale was never consummated.

On September 6, 1909, Dominion Construction Co., of Pittsburgh, filed a \$1,500,000 lien against the New Mexico Central Railroad Co. because of its failure to pay for the partial construction of the 60-mile extension to the Hagan coal fields.

In 1910 a foreclosure suit was brought by the Pittsburgh Trust Co. on the ground that the railroad had defaulted in the payment of interest. Following this suit C. C. Murray, of Pittsburgh, Pa., was appointed receiver on January 10, 1910. In December, 1914, Ralph C. Ely, of Santa Fe, N. Mex., was appointed receiver to succeed Charles Murray.

A committee of the bondholders, of which C. C. Murray, the former receiver, is a member, desires to scrap the road. Opposed to this committee is Ralph C. Ely, the present receiver, who is endeavoring to bring about the reorganization and adaptation of the road to the present needs of the community served. On July 22, 1916, the court denied a petition for the removal of Receiver Ralph C. Ely.

The primary difficulty causing the receivership of this railway system is the lack of traffic and small earnings. The revenues and expenses of the company are reported by Moody, in his Manual of Railroads and Corporation Securities, as follows:

	Gross earnings.	Operating expenses and taxes.	Loss from operation.	Other income.	Interest, etc.	Deficit for year.
1910-11.....	\$66,968	\$92,798	\$25,830	\$51	\$2,464	\$28,243
1911-12.....	101,127	94,186	16,941	142	4,731	12,352
1912-13.....	110,808	102,358	18,450	145	5,255	13,340
1913-14.....	92,741	117,772	25,031	.....	5,083	30,114
1914-15.....	69,552	88,879	19,327	.....	6,541	25,868
1915-16.....	65,072	81,540	16,468	.....	7,083	23,551

<sup>1</sup> Surplus.

The balance sheet of the company as of June 30, 1916, shows the following assets and liabilities:

Assets:

Road and equipment.....	\$5,680,598
Materials and supplies.....	14,011
Cash.....	1,013
Current accounts.....	4,648
Other assets.....	2,712,901
Profit and loss.....	139,949
Total assets.....	<u>8,553,120</u>

Liabilities:

Capital stock.....	5,000,000
Bonded debt.....	3,200,000
Receiver's certificates.....	50,000
Current liabilities.....	24,432
Accrued liabilities.....	46,322
Other liabilities.....	232,230
Appropriated surplus.....	136
Total liabilities.....	<u>8,553,120</u>

RECEIVER OF PERE MARQUETTE RAILROAD CO.

Provision for \$16,000,000 in cash to pay indebtedness and for necessary improvements; a reduction in funded debt from \$79,600,000 to \$36,300,000; an



increase in the outstanding stock from \$26,300,000 to \$68,675,000; a decrease in the total capitalization from \$113,340,129 to \$105,000,000, or \$8,340,129; and a decrease in fixed charges from \$4,127,340 to \$1,687,760, or \$2,439,580, are the outstanding features of the reorganization plan for Pere Marquette.

The reorganization plan has been approved by the Michigan Railroad Commission and has been declared operative.

The present Pere Marquette property is a consolidation of the properties of three major railway organizations—the Flint & Pere Marquette Railroad Co., the Chicago & West Michigan Railway Co., and the Detroit, Grand Rapids & Western Railroad Co.—which was consummated in December, 1899, and became effective January 1, 1900. In 1905 Pere Marquette was unable to earn operating expenses and interest upon its bonded debt, and passed into the hands of Judson Harmon as receiver. This receivership was continued until December, 1907, when the property was restored to its owners. Except for two years immediately following the restoration of the property to its owners, in 1907, the Pere Marquette has been experiencing annual deficits. These deficits continued to grow to such proportions that in 1912 receivers were again appointed to take possession of the Pere Marquette properties.

Pere Marquette owns in fee 1,856.27 miles of road, of which 983.33 represent main line and 872.94 represent branch-line mileage. All of the mileage is located in Michigan. In addition, the company controls through stock ownership 126.78 miles of main line from Walkerville to St. Thomas, Ontario, and 72.03 miles of branch lines from Sarnia to Rond Eau, Ontario. The lines of the Pere Marquette gird the Southern Peninsula of Michigan, which is bounded by Lake Huron on the east and Lake Michigan on the west. The properties at one time or another were owned by 108 corporations, of which 51 have taken an active part in constructing portions of the line of railways now owned by the Pere Marquette. In a letter of April 6, 1917, C. L. Glasgow, chairman of the Michigan Railroad Commission, alleges that one of the reasons for the company's difficulties is that it is made up of over 100 corporations, 52 of which are active, which represent the construction of a large number of small lines constructed under the conditions usual, and whose securities had to be cared for when the consolidation of the Pere Marquette took place. About 50 per cent of the present Pere Marquette line is profitable and the other 50 per cent is far from it, and has to be cared for by the main lines serving the larger cities. Mr. Glasgow reports that a large portion of the Pere Marquette mileage in the upper portion of the Lower Peninsula of Michigan is made up of what was originally logging roads, in some instances narrow gauge, and which were later made standard and eventually acquired by the Pere Marquette system.

At the time these logging roads were built the forest, then uncut, provided a large and profitable traffic in timber. Most of the timber has now been cut, and much of the heavy freight produce is carried by water. Until such time as the agricultural possibilities are fully developed, many of the lines of the Pere Marquette will have to be operated at a loss.

In 1911 the Michigan commission authorized the Pere Marquette to issue \$8,000,000 of five-year 6 per cent notes, of which \$2,500,000 were to be used for specific purposes. Subsequently the company violated the order of the commission and applied the \$2,500,000 to purposes other than those specified. In 1912 the company made application to the commission for authority to issue \$4,000,000 of notes to take care of maturing obligations and pay interest. In view of the fact that the company had violated the commission's order of 1911, and in further view of the financial condition of the road, the commission refused to grant the company authority to issue the \$4,000,000 of notes. This refusal precipitated the receivership in April, 1912. Railroad financial papers at the time were prone to place the burden of the receivership of the Pere Marquette upon the Michigan Railroad Commission.

The history of this system, together with its financial statements, clearly demonstrate that the causes of the receivership of the Pere Marquette antedate the order of the Michigan commission refusing authority to issue the \$4,000,000 of notes.

Referring to the financial status of Pere Marquette for year ending June 30, 1911, the *Railway Age Gazette* (vol. 52, p. 327) says in part:

"The difficulties of making a good financial showing for the Pere Marquette in the fiscal year ended June 30, 1911, were, apparently, insurmountable. These difficulties are the result of the past history and financing of the road and of its physical location, and to the fact that, competing with other roads

on through traffic, notably the Michigan Central, it is at a great disadvantage. In 1907 the road was put into the hands of a receiver, after the breakdown of its affiliation with the Cincinnati, Hamilton & Dayton. Quite inadequate sums had been spent for upkeep, and the receiver found it necessary to make considerably larger expenditures for maintenance. The company was reorganized in December, 1907, under the direction of J. P. Morgan & Co., and put directly in charge of William Cotter, who had been the road's general manager under the receiver.

"While the property had been improved physically, and important operating economies had been carried out, the reorganization, from the financial standpoint, was not drastic and the company was left badly in need of money.

"The Pere Marquette operates over 2,000 miles of line in Michigan and has trackage rights which give it a connection both with Buffalo and with Chicago. For through traffic, however, between these points, it has to compete not only with the Michigan Central, and the Lake Shore, and other roads, but labors under the disadvantage of having no eastern connections nor any western connections. To have the faintest hope of competing for through business, service must be high class and, therefore, expensive. On the other hand, the Pere Marquette has a very considerable mileage in Michigan through thinly populated territory where, although it has no competition, it has such a light traffic that the operating ratio on these lines is high.

"As an independent and competing road, with its present capitalization, it is not at all surprising that in the fiscal year ended June 30, 1911, the company showed a deficit, after the payment of interest and rentals, of \$1,800,000. This deficit was due to very slightly smaller gross revenues, an increase of \$1,770,000 in operating expenses, an increase of \$194,000 in interest and rentals, and an increase of \$427,000 in the net cost of hire of equipment."

In its issue of December 27, 1912 (vol. 53, p. 1243), the *Railway Age Gazette* says:

"The receivership of the Pere Marquette had nothing particular to do with the year 1912, except that it happened in that year. When the Cincinnati, Hamilton & Dayton was sold to J. P. Morgan & Co., it had taken on the burden of the Pere Marquette, but when the Morgan interests sold the Cincinnati, Hamilton & Dayton to the Baltimore & Ohio they were not able to get rid of the Pere Marquette at the same time. The road's credit was exhausted and the problems of operation were very severe. A hard winter added to operation costs and receivership followed. The underlying causes of the receivership date back many years, although legislation in Michigan and public hostility to railroads probably were contributing causes."

Subsequent to the appointment of a receiver, the legislature of Michigan appointed a joint committee to investigate the financial conditions of Pere Marquette. As reported by the *Railway Age Gazette* (vol. 54), officers and representatives of Pere Marquette offered testimony along the following lines:

1. F. W. Stevens, former counsel, advocated:

(a) The repeal of the 2-cent passenger law, which had cost the road \$3,000,000 in five years.

(b) The enactment of a law which will recognize a difference in passenger rates in sparsely and populated districts.

(c) Changes in the attitude of the State to railroads.

Stevens produces statements showing:

(a) That the increase in cost of materials, wages, interest, and rentals caused a deficit of \$1,800,000 in 1911 and a slightly larger deficit in 1912 after the company in 1910 has earned a surplus of \$469,000.

(b) Wage increase in 1911 as compared with 1910, \$1,022,000.

(c) Higher cost of materials, \$492,000.

(d) Proposed pending Michigan legislation will cost road \$818,000 with no returns.

(e) If the Interstate Commerce Commission had permitted the 1910 rate increase, Pere Marquette would have profited by \$500,000.

2. S. M. Felton, president of Pere Marquette, is reported as saying:

(a) That the affiliation of Pere Marquette with Cincinnati, Hamilton & Dayton in 1904 was unwise, and the acquisition of Chicago, Cincinnati & Louisville a positive detriment to Pere Marquette.

(b) That during the period from 1903 to 1907, before the 2-cent law was in effect, average fare per passenger varied from 75.7 cents in 1907 to 66.7 cents in 1912.

(c) That the 2-cent passenger law is confiscatory. He advocated a 2½-cent rate. Passenger business, which in 1912 yielded \$4,023,039, would have yielded \$741,677 more under old rates.

3. Newman Erb, chairman of the board of directors, attributed the failure of the road to the following:

(a) Wage increases and disruption of traffic caused by undertaking too many improvements at one time by President Colter in 1911.

(b) Failure on part of officials of company to develop the country.

(c) The gradual reduction in rates from an average of 7.03 mills per ton-mile in 1902 to 5.75 mills per ton-mile in 1911, while expenses increased at the rate of \$1,000,000 for wages, \$500,000 for materials, and \$280,00 for taxes. If the 1902 conditions had prevailed in 1911 the company would have had a surplus of \$6,000,000.

4. W. D. Trump, former general superintendent of Pere Marquette, stated that during his connection with the road the property was not properly maintained; that some rails were in the track for 30 years; that much of the money spent was wasted; that it was unwise to purchase the Chicago, Cincinnati & Louisville or extend the line to Chicago; that a 2-cent passenger rate was inadequate.

As reported in the Railway Age Gazette, the joint legislative committee found that a 2-cent passenger rate was too low for branch lines and that the existing through rates were inadequate. It recommended a readjustment of the rates by the Interstate Commerce Commission. While the committee found that there was some mismanagement of the property under former administrations, it reported "much has been said and printed about watered bonds, but your committee is satisfied that the money represented by the funded debt of approximately \$70,000,000 has been paid into the Pere Marquette corporation, that all of the bonds are honest, that none of them are watered, and that persons owning them have honest claims against the Pere Marquette on account of said bonds."

The Interstate Commerce Commission in its recent report relating to the financial condition of Pere Marquette and Cincinnati, Hamilton & Dayton takes a somewhat different view than did the Michigan joint legislative committee.

In its decision of September 1, 1916, tentatively approving the reorganization plan of the Pere Marquette, the Michigan Railroad Commission reports outstanding capital stock, bonds, notes, and other obligations of the Pere Marquette as of July 1, 1916, as follows:

#### Underlying bonds:

F. & P. M. R. R. first mortgage 6 per cent gold bonds	\$4,000,000
F. & P. M. R. R. first mortgage 4 per cent gold bonds	1,000,000
F. & P. M. R. R., Toledo division, first mortgage 5 per cent gold bonds	400,000
F. & P. M. R. R., Port Huron division, first mortgage 5 per cent gold bonds	3,325,000
F. & P. M. R. R. first consolidated mortgage 5 per cent gold bonds	2,850,000
C. & W. M. R. R. Co. first mortgage 5 per cent bonds	5,758,000
C. & N. M. R. R. Co. first mortgage 5 per cent bonds	1,667,000
D. G. R. & W. R. R. Co. first mortgage 4 per cent bonds	5,379,000
S. T. & H. R. R. Co. first mortgage 4 per cent gold bonds	1,000,000
G. R. B. & S. R. R. Co. first mortgage 5 per cent gold bonds	260,000
P. M. R. R. Co., of Indiana, first mortgage 4 per cent bonds	675,000

Total underlying bonds	<u>26,314,000</u>
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#### General mortgage bonds:

P. M. R. R. Co. consolidated mortgage 4 per cent gold bonds	8,382,000
P. M. R. R. Co. refunding mortgage 4 per cent gold bonds	14,789,000
P. M. R. R. Co. improvement and refunding general mortgage 5 per cent bonds	17,157,942

Total general mortgage bonds	<u>40,328,942</u>
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## Collateral trust bonds:

P. M. R. R. Co. collateral trust indenture 4 per cent bonds.....	\$2,870,000
P. M. R. R. Co., Lake Erie division, collateral trust indenture 4½ per cent bonds.....	3,000,000
P. M. R. R. Co. collateral trust 6 per cent notes.....	2,125,884

Total collateral trust bonds.....	7,995,884
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Debenture bonds: P. M. R. R. Co. 6 per cent debentures .....	5,000,000
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Total of all bonds.....	79,638,826
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## Capital stock:

P. M. R. R. Co. first preferred stock.....	10,929,800
P. M. R. R. Co. second preferred stock.....	968,180
P. M. R. R. Co. common stock.....	14,370,430
P. M. R. R. Co. stock liability for conversion.....	58,800

Total.....	26,327,210
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Equipment obligations.....	1,750,434
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Bills payable: Old Colony Trust Co. 6 per cent notes.....	656,093
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## Receivers' certificates:

P. M. R. R. 4½ per cent receivers' certificates, dated Apr. 23, 1912.....	605,000
P. H. R. R. 5 per cent receivers' certificates, dated June 1, 1912.....	3,500,000
P. M. R. R. 5 per cent receivers' certificates, series B, dated Aug. 1, 1914.....	1,237,000

Total receivers' certificates.....	5,342,000
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Receivers' notes.....	725,000
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Grand total.....	114,439,623
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The capitalization of the new company may be summarized as follows:

First mortgage series A 5 per cent bonds, to be issued.....	\$21,976,000
For refunding purposes.....	\$15,976,000
For sale to syndicate.....	6,000,000
First mortgage series B 5 per cent bonds, to be issued for refunding purposes.....	8,479,000
Undistributed funded debt (Canadian lines).....	5,870,000
5 per cent prior preference cumulative stock, total issue to be sold to syndicate.....	11,200,000
5 per cent preferred stock, cumulative after Jan. 1, 1919, for re- funding purposes.....	12,429,000
Common stock.....	45,046,000
For refunding purposes.....	\$19,370,600
For sale to syndicate.....	25,675,400
Total.....	105,000,000

The only old securities which remain undisturbed are: (a) \$3,000,000 P. M. R. R., Lake Erie division, collateral trust 4½ per cent bonds, due August 1, 1923; (b) \$2,870,000 P. M. R. R. collateral trust fours, due January 1, 1923.

According to the reorganization plan the new securities are to be disposed of as follows:

*First mortgage gold bonds, carrying interest from July 1, 1916.*

A. SERIES A, 5 PER CENT, DUE 1956, REDEEMABLE AT 105 AND ACCRUED INTEREST.

To be used in exchange or partial exchange for—	Principal and interest outstanding July 1, 1916.	First mortgage bonds, series A, 5 per cent issued in exchange or partial exchange.
Flint & Pere Marquette R. R. first mortgage 6 per cent bonds, due Oct. 1, 1920:		
Principal.....	\$4,000,000	
Unpaid interest to July 1, 1916 <sup>1</sup> .....	705,000	
	\$4,705,000	\$4,708,000
Allowance to compensate for reduction in interest from 6 to 5 per cent.....		240,000
Flint & Pere Marquette R. R. first mortgage 4 per cent bonds, due Oct. 1, 1920:		
Principal.....	1,000,000	
Unpaid interest to July 1, 1916 <sup>1</sup> .....	115,000	
	1,115,000	1,115,000
Flint & Pere Marquette R. R., Toledo division, first mortgage 5 per cent bonds, due July 1, 1937:		
Principal.....	400,000	
Unpaid interest to July 1, 1916.....	52,500	
	452,500	452,800
Flint & Pere Marquette R. R. first consolidated mortgage 5 per cent bonds, due May 1, 1939:		
Principal.....	2,850,000	
Unpaid interest to July 1, 1916.....	400,781	
	3,250,781	1,828,850
Chicago & West Michigan Ry. first mortgage 5 per cent bonds, due Dec. 1, 1921:		
Principal.....	5,758,000	
Unpaid interest to July 1, 1916.....	782,728	
	6,540,728	6,541,083
Pere Marquette R. R. of Indiana, first mortgage 4 per cent bonds, due May 1, 1943:		
Principal.....	675,000	
Unpaid interest to July 1, 1916.....		
	750,150	75,600
Detroit, Grand Rapids & Western R. R. first consolidated mortgage 4 per cent bonds, due Apr. 1, 1946:		
Principal.....	5,379,000	
Unpaid interest to July 1, 1916 <sup>1</sup> .....	618,585	
	5,997,585	618,585
Saginaw, Tuscola & Huron R. R. first mortgage 4 per cent bonds, due Aug. 1, 1931:		
Principal.....	1,000,000	
Unpaid interest to July 1, 1916.....	100,400	
	1,100,400	101,000
Detached coupons, due Apr. 1, 1912, Flint & Pere Marquette R. R. first mortgage 6 per cent bonds:		
Principal.....	115,470	
Interest.....	29,445	
	144,915	144,915
Detached coupons, due Apr. 1, 1912, Flint & Pere Marquette R. R. first mortgage 4 per cent bonds:		
Principal.....	19,840	
Interest.....	3,373	
	23,213	23,213
Detached coupons, due Apr. 1, 1912, Detroit, Grand Rapids & Western R. R. first consolidated mortgage 4 per cent bonds:		
Principal.....	107,580	
Interest.....	18,289	
	125,869	125,869
Add to adjust small fractional differences.....		3,080
Total to be used in exchange or partial exchange.....		15,976,000
For sale to purchase syndicate.....		6,000,000
Total.....		21,976,000

<sup>1</sup> Excluding detached coupons for which separate provision is made.

*First mortgage gold bonds, carrying interest from July 1, 1916—Continued.*

B. SERIES B, 4 PER CENT, DUE 1936, REDEEMABLE AT PAR AND ACCRUED INTEREST.

To be used in exchange or partial exchange for—	Principal and interest outstanding July 1, 1916.	First mortgage bonds, series B, 4 per cent issued in exchange or partial exchange.
Flint & Pere Marquette R. R. first consolidated mortgage 5 per cent bonds, due May 1, 1939:		
Principal.....	\$2,850,000	
Unpaid interest to July 1, 1916.....	400,781	
Pere Marquette R. R. of Indiana first mortgage 4 per cent bonds, due May 1, 1943:	\$3,250,781	\$1,425,000
Principal.....	675,000	
Unpaid interest to July 1, 1916.....	75,150	
	750,150	675,000
Detroit, Grand Rapids & Western R. R. first consolidated mortgage 4 per cent bonds, due Apr. 1, 1946:		
Principal.....	5,379,000	
Unpaid interest to July 1, 1916 <sup>1</sup> .....	618,585	
	5,997,585	5,379,000
Saginaw, Tuscola & Huron R. R. first mortgage 4 per cent bonds, due Aug. 1, 1931:		
Principal.....	1,000,000	
Unpaid interest to July 1, 1916.....	100,400	
	1,100,400	1,000,000
Total.....		8,479,000

<sup>1</sup> Excluding detached coupons for which separate provision is made.*Five per cent prior preference stock, cumulative.*

For sale to purchase syndicate, total issue..... \$11,200,000

*Five per cent preferred stock, cumulative after Jan. 1, 1919.*

To be used in exchange or partial exchange for—	Principal and interest outstanding July 1, 1916.	Preferred stock (trust certificates) issued in exchange or partial exchange.
Flint & Pere Marquette R. R., Port Huron division, first mortgage 5 per cent bonds, due Apr. 1, 1939:		
Principal.....	<sup>1</sup> \$3,325,000	
Unpaid interest to July 1, 1916.....	483,164	
	\$3,808,164	\$2,540,300
Chicago & North Michigan R. R. first mortgage 5 per cent bonds, due May 1, 1931:		
Principal.....	1,667,000	
Unpaid interest to July 1, 1916.....	234,422	
	1,901,422	633,460
Pere Marquette R. R. consolidated mortgage 4 per cent bonds, due Jan. 1, 1951:		
Principal.....	8,382,000	
Unpaid interest to July 1, 1916.....	871,728	
	9,253,728	9,253,728
Add to adjust small fractional differences.....		1,512
Total issue.....		12,429,000

<sup>1</sup> Excluding Port Huron division bonds pledged under Pere Marquette refunding mortgage.



*Common stock.*

To be used in exchange or partial exchange for—	Principal and interest outstanding July 1, 1916.	Common stock (trust certificates) issued in exchange or partial exchange.
Flint & Pere Marquette R. R., Port Huron division, first mortgage 5 per cent bonds, due Apr. 1, 1939:		
Principal..... <sup>1</sup>	\$3,325,000	
Unpaid interest to July 1, 1916.....	483,164	
	\$3,808,164	\$1,270,150
Chicago & North Michigan R. R. first mortgage 5 per cent bonds, due May 1, 1931:		
Principal.....	1,667,000	
Unpaid interest to July 1, 1916.....	234,422	
	1,901,422	1,268,587
Grand Rapids, Belding & Saginaw R. R. first mortgage 5 per cent bonds, due Mar. 1, 1924:		
Principal.....	260,000	
Unpaid interest to July 1, 1916.....	39,000	
	299,000	299,000
Pere Marquette R. R. refunding 4 per cent bonds, due Jan. 1, 1955:		
Principal..... <sup>2</sup>	13,914,000	
Unpaid interest to July 1, 1916..... <sup>3</sup>	1,447,056	
	15,361,056	15,361,056
Detached coupons pertaining to Pere Marquette R. R. refunding mortgage 4 per cent bonds:		
Coupons—	Face amount.	Interest to July 1, 1916.
Due July 1, 1912.....	\$278,280	\$44,524
Due Jan. 1, 1913.....	76,160	10,662
Due July 1, 1913.....	278,280	33,393
Due Jan. 1, 1914.....	278,280	27,828
Old Colony notes, balance due.....		144,000
Add to adjust small fractional differences.....		400
Total to be used in exchange or partial exchange.....		19,370,600
For sale to purchase syndicate.....		25,675,400
Total issue.....		45,046,000

<sup>1</sup> Excluding Port Huron division bonds pledged under Pere Marquette refunding mortgage.<sup>2</sup> Excluding refunding mortgage bonds pledged to secure equipment trust obligations.<sup>3</sup> Excluding detached coupons for which separate provision is made.*Distribution of securities other than those offered for sale by the purchase syndicate.*

[Noninterest and nondividend bearing scrip exchangeable in round amounts will be issued for fractional amounts of new bonds and stocks (trust certificates).]

Existing securities.	Each \$1,000 principal amount of existing securities to receive—		
	First mortgage bonds.		Common stock (trust certificates).
	Series A, 5 per cent.	Series B, 4 per cent.	
Flint & Pere Marquette R. R. first mortgage 6 per cent bonds.....	\$1,237.00		
Flint & Pere Marquette R. R. first mortgage 4 per cent bonds.....	1,115.00		
Flint & Pere Marquette R. R. (Toledo division) first mortgage 5 per cent bonds.....	1,132.00		
Flint & Pere Marquette R. R. (Port Huron division) first mortgage 5 per cent bonds.....			\$764.00
Flint & Pere Marquette R. R. first consolidated mortgage 5 per cent bonds.....	641.00	\$500.00	\$382.00
Chicago & West Michigan R. y. first mortgage 5 per cent bonds.....	1,136.00		
Chicago & North Michigan R. R. first mortgage 5 per cent bonds.....			380.00
Detroit, Grand Rapids & Western R. R. first consolidated mortgage 4 per cent bonds.....	115.00	1,000.00	761.00

*Distribution of securities other than those offered for sale by the purchase syndicate—Continued.*

Existing securities.	First mortgage bonds.		Preferred stock (trust certificates).	Common stock (trust certificates).
	Series A. 5 per cent.	Series B. 4 per cent.		
Saginaw, Tuscola & Huron R. R. first mortgage 4 per cent bonds.....	\$101.00	\$1,000.00		
Grand Rapids, Belding & Saginaw R. R. first mortgage 5 per cent bonds.....				\$1,150.00
Pere Marquette R. R. of Indiana first mortgage 4 per cent bonds.....	112.00	1,000.00		
Pere Marquette consolidated mortgage 4 per cent bonds..			\$1,104.00	
Pere Marquette refunding mortgage 4 per cent bonds.....				1,104.00
Old Colony notes.....				120.00
Detached coupons due Apr. 1, 1912, pertaining to—				
F. & P. M. R. R. first mortgage 6 per cent bonds.....	\$115,470	237.65		
F. & P. M. R. R. first mortgage 4 per cent bonds.....	19,840	23.40		
D. G. R. & W. R. R. first consolidated mortgage 4 per cent bonds.....	107,580	23.40		
Detached coupons pertaining to refunding mortgage bonds:				
Due July 1, 1912.....	\$278,280			23.20
Due Jan. 1, 1913.....	76,160			22.80
Due July 1, 1913.....	278,280			22.40
Due Jan. 1, 1914.....	278,280			22.00

<sup>1</sup> Per \$1,000 face amount of original notes, new stock, allotted being the substantial equivalent, at par, of balance unpaid.

<sup>2</sup> Per \$30 coupon.

<sup>3</sup> Per \$20 coupon.

To pay matured and maturing obligations and to provide funds for necessary additions and betterments, the reorganization committee estimates the cash requirement of the Pere Marquette at \$16,000,000, as follows:

Receivers' certificates and notes.....	\$4,615,000
Equipment trust obligations as of Jan. 1, 1917.....	1,056,000
Settlement of miscellaneous claims.....	350,000
Commission to purchase syndicate, including compensation of loan syndicate.....	800,000
Organization, franchise, and other taxes.....	150,000
Expenses of committees, including their compensation, fees of their counsel, and engineering and accounting experts.....	675,000
Reorganization expenses, including compensation of the reorganization managers, legal and miscellaneous expenses.....	1,054,000
Payment of interest on new bonds and dividend on preferred stock from July 1, 1916.....	1,300,000
Additions, improvements, new construction, new equipment, and working capital, etc.....	6,000,000
<b>Total.....</b>	<b>16,000,000</b>

Messrs. J. & W. Seligman & Co., Robert Winthrop & Co., and Kidder, Peabody & Co. have undertaken to form a purchase syndicate, of which they will be the managers. For the sum of \$16,000,000 this syndicate will acquire \$6,000,000 series A 5 per cent first mortgage bonds, \$11,200,000 5 per cent prior preference cumulative stock, and \$25,675,400 common stock.

The purchase syndicate has offered the entire \$11,200,000 of prior preference stock and \$22,400,000 of the common stock to depositing bondholders and stockholders at the rate of \$1,000 par value of prior preference stock and \$2,000 par value of common stock together for the sum of \$975 in cash. In the case of stockholders, debenture holders, and collateral note holders, this was the only privilege accorded by the plan. In the case of refunding mortgage bondholders, they received, in addition to new securities, as shown on a preceding page, the privilege of subscribing for new stock upon payment at the time of deposit of

the sum of \$43.75 for each \$1,000 principal amount of refunding bonds held. The following table shows the minimum amount of new securities which might be acquired by depositors of each \$1,000 par value of existing securities set forth:

Existing securities.	Prior preference stock.	Common stock.	Cash payment.
Refunding mortgage bonds.....	\$250.00	\$500.00	\$243.75
Collateral trust notes.....	400.00	800.00	390.00
Debentures.....	380.00	760.00	370.50
First preferred stock.....	100.00	200.00	97.50
Second preferred stock.....	100.00	200.00	97.50
Common stock.....	100.00	200.00	97.50

The following table shows in comparative form a summary of the capitalization of the old and new company:

Securities.	Old company.	New company.	Difference.
Funded debt, including receivers' certificates and notes.....	\$86,912,919	\$36,325,000	\$50,587,919—
Common stock.....	14,429,230	45,046,000	30,616,770+
First preferred subscribed.....	10,929,800	<sup>1</sup> 11,200,000	270,200+
Second preferred stock.....	968,180	<sup>2</sup> 12,329,000	11,460,820+
Total capitalization.....	113,340,129	105,000,000	8,340,129—
Fixed interest charges.....	4,127,340	1,687,760	2,439,580—
Preferential dividends.....	475,800	<sup>3</sup> 1,181,450	705,650+
Total fixed interest charges and preferential dividends..	4,603,140	2,869,210	1,733,930—

<sup>1</sup> 5 per cent cumulative prior preference stock.

<sup>2</sup> 5 per cent preferred stock, cumulative after Jan. 1, 1919.

<sup>3</sup> Includes \$569,000 dividend on prior preference stock and \$621,450 dividend on preferred stock.

Newman Erb appeared before the Michigan Railroad Commission in April, 1912, and contended that the capitalization of the old Pere Marquette was normal and that its difficulties related to matters of operation. He was of the opinion that if the Michigan commission would permit the company to issue \$4,000,000 of notes to pay maturing obligations he would be able to save the company from bankruptcy and receivership. Obviously the reorganization committee has taken a different view of the capitalization of the Pere Marquette, or otherwise it would not have recommended and put into effect so drastic a reorganization plan as above outlined.

Mortimer E. Cooley, of the University of Michigan, appraised the Pere Marquette properties in 1914 for the Michigan Railroad Commission. He estimated the reproduction cost at \$96,962,771, and the cost of reproduction less depreciation at \$78,545,241. In view of this appraisal, the Michigan commission was requested to withhold its approval of any reorganization plan which provided for the issue of stocks and bonds in excess of \$75,000,000. The commission, however, rejected the request and gave its tentative approval to the reorganization plan above outlined, which provides for the issue of stocks and bonds in the amount of \$105,000,000. After considering the relation between capitalization and the value of the properties, the commission in its decision of September 1, 1916, says:

"From the foregoing it will not be inferred that the commission is of the opinion that the property of the Pere Marquette Railroad Co. has a value of \$105,000,000 measured by any legally recognized standards. The commission is clearly of the opinion that it has not such present value, and in any future proceeding wherein the value of the property may be a pertinent subject of inquiry it will be free to apply those standards which the merits of the particular proceedings and the law demands.

"Nor is the commission satisfied that the proposed plan of reorganization in all its details does exact an even justice between the various classes of security holders. The minor details of the plan we have assumed are within the province of the committees that have perfected them.



"The proposed plan in its larger aspect reduces the fixed charges upon the property to a point where past operations show they can be safely carried. The numerous divisional, general, and consolidated bonds of the company are retired and mortgage bonds of one class take their place, eliminating the priority and preference that has heretofore existed. The \$16,000,000 of capital essential for the immediate needs of the company is provided, the return upon more than ten million of the amount being conditional upon its being earned by the company. The common stock, while increased in amount, is a burden upon neither the company nor the public. The proposed plan effects an adjustment of many conflicting interests; it forestalls what otherwise might be protracted litigation with its retarding influence; it frees the company from the constant harassing of current obligations and equipment trusts; takes the property from receivership and places it in the control of its owners.

"Because of these considerations, and because the proposed plan in no manner injuriously affects but rather promotes the public interest, we believe the plan should receive our tentative approval."

The causes of the financial difficulties of the Pere Marquette are fully discussed by the Interstate Commerce Commission in its report of March 13, 1917, to which reference is here made.

The tables following show the revenues and expenses and capitalization per mile of the Pere Marquette.

*Income factors, earnings and their distribution per mile of road.*

[Data from Moody's Manual of Railroad Investments.]

Year ended June 30—	Gross revenues.	Maintenance.			All other operating expenses.	Net operating revenues.	Total net income.
		Way.	Equipment.	Total.			
1905.....	\$5,323	\$720	\$650	\$1,370	\$2,797	\$1,156	\$1,336
1906.....	5,599	679	791	1,470	2,672	1,457	1,524
1907.....	5,947	686	827	1,513	2,661	1,773	1,831
1908.....	5,802	703	868	1,571	2,891	1,340	1,572
1909.....	6,263	715	864	1,579	2,951	1,733	1,835
1910.....	6,862	829	909	1,738	3,068	2,056	2,132
1911.....	7,088	911	1,094	2,005	3,774	1,309	1,135
1912.....	7,362	886	1,203	2,089	3,903	1,370	1,174
1913.....	7,729	1,264	1,282	2,546	3,662	1,521	1,398
1914.....	7,071	1,282	2,696	3,978	3,520	247	2402
1915.....	7,791	864	1,509	2,373	3,436	1,982	2,087
1916.....	9,419	892	1,896	2,788	3,667	2,964	3,067
10-year average.....	7,133	903	1,315	2,218	2,353	1,562	1,583

Year ended June 30—	Taxes accrued.	Balance for charges.	Fixed charges.	Margin of safety.	Surplus over charges.	Dividends.
1905.....			<sup>1</sup> \$1,351	<i>Per cent.</i>	<sup>2</sup> \$75	\$223
1906.....			<sup>1</sup> 1,884		<sup>2</sup> 360	
1907.....	\$190	\$1,641	1,460	11	<sup>2</sup> 181	
1908.....	225	1,317	1,514		<sup>2</sup> 167	
1909.....	230	1,605	1,588	1	17	
1910.....	324	1,808	1,607	11	201	
1911.....	285	850	1,802		<sup>2</sup> 952	
1912.....	287	887	1,932		<sup>2</sup> 1,045	
1913.....	238	1,160	1,815		<sup>2</sup> 685	
1914.....	277	<sup>2</sup> 679	2,399		<sup>2</sup> 3,078	
1915.....	155	1,932	2,545		<sup>2</sup> 619	
1916.....	278	2,789	2,676		113	
10-year average.....	249	1,334	1,937		<sup>2</sup> 603	

<sup>1</sup> Includes taxes.

<sup>2</sup> Deficit.

*Physical factors, mileage, equipment, and operation.*

[Data from Moody's Analyses of Railroad Investments.]

Year ended June 30—	Average miles operated.	Extra main track.	Locomotives owned.	Passenger cars owned.	Freight and company cars owned.	Freight to all traffic.
						<i>Per cent.</i>
1907.....	2,390		429	390	18,751	70
1908.....	2,360		427	373	19,267	69
1909.....	2,349		417	364	19,020	66
1910.....	2,331		437	371	18,846	67
1911.....	2,331		451	399	18,667	61
1912.....	2,330		476	402	18,423	65
1913.....	2,330		458	391	18,242	67
1914.....	2,324	278	428	373	16,798	67
1915.....	2,314	60	419	371	16,359	70
1916.....	2,251	269	418	369	15,634	71
10-year average.....	2,331	51	436	380	18,001	67

Year ended June 30—	Passenger density.	Freight density.	Average freight-load.	Train-mile earnings.	Average rate per passenger per mile.	Average rate per ton per mile.
			<i>Tons.</i>		<i>Cents.</i>	<i>Cents.</i>
1907.....	69,900	717,743	322	\$1.64	1.97	0.58
1908.....	75,723	679,745	288	1.54	1.85	.60
1909.....	80,769	716,083	307	1.64	1.77	.58
1910.....	89,876	808,517	323	1.71	1.77	.59
1911.....	94,841	797,272	320	1.69	1.77	.58
1912.....	96,033	750,758	335	1.89	1.80	.64
1913.....	93,414	849,618	419	2.13	1.84	.60
1914.....	89,056	778,230	431	2.08	1.89	.61
1915.....	86,315	896,526	490	2.29	1.97	.61
1916.....	92,034	1,041,813	547	2.67	1.99	.64
10-year average.....	86,796	803,631	378	1.93	1.86	.60

NOTE.—Yards and side tracks, 870 miles.

*Capitalization per mile.*

[Data from Moody's Analyses of Railroad Investments.]

Years ended June 30—	Stock.		Bonds.		Rentals capitalized at 5 per cent.	Total gross capital.	Owned by company as per balance sheet.	Net capitalization.	Net income on net capital.
	Out-standing.	Per cent of whole.	Out-standing.	Per cent of whole.					
									<i>Per cent.</i>
1907.....	\$11,715	32	\$25,055	68	\$6,008	\$42,778	\$2,488	\$40,290	4.5
1908.....	12,079	30	28,803	70	5,716	46,598	918	45,680	3.5
1909.....	12,728	30	28,996	70	5,952	47,676	454	47,222	3.9
1910.....	11,294	30	26,367	70	5,805	43,466	2,980	40,486	4.2
1911.....	11,294	30	26,840	70	6,114	44,298	216	44,082	2.6
1912.....	11,310	27	29,490	73	6,002	46,802	1,191	45,611	2.5
1913.....	11,299	27	30,945	73	6,300	48,544	1,233	47,311	3.0
1914.....	12,263	26	34,406	74	6,372	53,041	1,174	51,867	4.0
1915.....	11,377	25	34,717	75	6,618	52,712	1,310	51,402	4.0
1916.....	12,661	27	34,931	73	5,906	53,498	1,347	52,151	5.9
Average for 10 years..	11,802	28	30,060	72	6,079	47,941	1,331	46,610	3.4

NOTE.—Above table is based on average mileage operated each year. Bonds outstanding per mile as shown above include all issues, as well as equipment trusts and receiver's certificates.

## RECEIVERSHIP OF THE SAN ANTONIO, UVALDE &amp; GULF RAILROAD.

San Antonio, Uvalde & Gulf Railroad was incorporated April 17, 1909, in Texas as Crystal City & Uvalde Railroad. Name changed to present title April 4, 1912.

Mileage completed to June 30, 1916, 313.66.

Location of road———

I. & G. N. Junction, San Antonio to Crystal City, Tex., 143.26 miles.

Uvalde Junction to Corrido Springs, Tex., 52.90 miles.

Pleasanton Junction to Corpus Christi, Tex., 117.50 miles.

Sidings, 30 miles.

San Antonio, Uvalde & Gulf Railroad Co. was financed through the Bankers' Trust Co. of St. Louis, formerly the Western Bankers' Trust Co. On April 29, 1914, the stock of the Bankers' Trust Co. of St. Louis was selling at \$189.50 per share; on July 31, 1914, at \$32 per share. In May, 1914, J. E. Franklin, president of the trust company, gave two reasons for decline in value of stock.

1. Passing of regular quarterly dividend.

2. Investment in a new railroad (San Antonio, Uvalde & Gulf) which it is impossible to sell under existing conditions. (See Commercial and Financial Chronicle, May 23, 1914.)

In August, 1914, Judge Burns, in Federal Court at San Antonio, Tex., appointed Duval West, of San Antonio, receiver of the railroad properties. Shortly thereafter A. R. Ponder, president and general manager of the railroad company, confirmed the statement that Bankers' Trust Co. of St. Louis owned all of the bonds, \$4,113,000, and all of the stock, \$315,000, of the railroad company. (Commercial and Financial Chronicle, Aug. 8, 1914.) Ponder believed that the road would be self-sustaining as soon as cotton shipments began. In this he was mistaken.

On September 29, 1914, Leon W. Quick was appointed receiver for Bankers' Trust Co. of St. Louis. In his report of October 5 he reports the liabilities of the trust company at \$1,336,741.

On November 26, 1916, the Commercial and Financial Chronicle reported that the National Bank of Commerce of St. Louis will sell on December 8, at auction, \$3,060,000 of San Antonio, Uvalde & Gulf Railroad bonds pledged as collateral to secure \$665,808 notes of the defunct Bankers' Trust Co. of St. Louis and \$110,417 notes of Leon W. Quick, receiver for the trust company, or a total of \$776,225.

The operating revenues and expenses of the road are reported as follows:

Item.	1916	1915	1914	1913	1912
Gross earnings.....	\$589,500	\$475,259	\$398,357	\$305,610	\$132,210
Operating expenses and taxes.....	503,050	469,435	386,557	223,772	107,866
Net earnings.....	86,418	5,824	11,800	81,838	24,344
Fixed charges.....	56,625	48,692	35,549	28,202	11,098
Surplus.....	<sup>1</sup> 30,130	<sup>2</sup> 42,868	<sup>2</sup> 23,749	53,636	13,246

<sup>1</sup> Includes \$337 other income.

<sup>2</sup> Deficit.

The assets and liabilities of the road on June 30, 1916, are reported as follows:

## Assets:

Road and equipment.....	\$4,709,462
Cash .....	54,641
Bills receivable.....	1,574
Current accounts.....	256,599
Other assets.....	3,996
Deferred debit items.....	51,302
Profit and loss.....	39,678
Total .....	<u>5,117,252</u>



## Liabilities:

Capital stock.....	\$280,000
Bonded debt.....	4,413,000
Receiver's certificates <sup>1</sup> .....	163,000
Loans and notes payable.....	12,991
Current liabilities.....	157,953
Accrued liabilities.....	26,434
Other liabilities.....	13,860
Deferred credit items.....	50,014

Total..... 5,117,252

The reports in the Commercial and Financial Chronicle indicate that the failure of the railroad was caused by the inability of the trust company to carry the road until it attained its full operating efficiency.

## RECEIVERSHIP OF THE ST. LOUIS, BROWNSVILLE &amp; MEXICO RAILWAY.

St. Louis, Brownsville & Mexico Railway, hereinafter referred to as the Brownsville, is controlled by the New Orleans, Texas & Mexico Railroad Co., which in turn was controlled by the St. Louis & San Francisco. It appears that the corporate relations between the New Orleans and the Frisco have been entirely severed. The Brownsville, however, is still under the control of the New Orleans company.

The Brownsville was organized June 5, 1903, under the laws of Texas.

On June 30, 1916, the Brownsville operated 548.18 miles of standard gauge line. All of the mileage is located in Texas.

Road owned:	Miles.
Brownsville to Algoa, Tex.....	343.14
Harlingen to Sam Fordyce, Tex.....	55.44
Brownsville Sugar Mill branch.....	2.61
Buckeye to College Port, Tex.....	16.9
Bloomington to Port O'Connor.....	38.58
Brownsville belt line.....	7.24
San Juan to Edinberg, Tex.....	7.89
Bloomington to Victoria, Tex.....	13.56
Heyser to Austwell, Tex.....	16.88

Total owned..... 502.24

## Trackage rights:

Robstown to Corpus Christi, Tex.....	16.39
Algoa to Houston, Tex.....	28.84
Brownsville belt line.....	.72

Total mileage operated..... 548.19

In addition to the main-line mileage, the company owns and operates sidings amounting to 124.71 miles.

On July 4, 1913, Frank Andrews was appointed receiver.

The Interstate Commerce Commission in its investigation of the affairs of the St. Louis & San Francisco found that the operation of the Brownsville was unprofitable since 1909. The officers of the company attributed the poor showing of the company to the following causes:

1. Unsettled conditions in the Republic of Mexico, which prevented an interchange of through business with the National Railways of Mexico via Brownsville, Tex., and Matamoras, Mexico.

2. Failure of crops along the line of the Brownsville.

3. Lack of refrigerator equipment necessary to move perishable products, consequent damage to shipments, and subsequent payments of loss and damage claims thereon.

4. Glutted market conditions and inability of producers to market their products at a profit, resulting in allowing such products to remain unshipped.

<sup>1</sup> Issued to ballast and complete the road.

5. One-way loaded-car movement resulting from the transportation of empty stock and refrigerator cars south because of insufficient inbound traffic to provide loaded movement both ways.

While the Interstate Commerce Commission admits that the above causes may have contributed to the unsatisfactory results from the operation of this property, it contends that the more important cause of the deficits since 1909 has been the interest on capitalization.

The total capitalization of the Brownsville is \$12,670,105.98, of which \$500,000 represents capital stock. The remaining capitalization, amounting to \$12,179,105.98, represents interest-bearing indebtedness. The ratio of interest-bearing securities to the total securities outstanding is 96.06 per cent. The commission finds that this is an excessive ratio even when compared with the Frisco, which has a ratio of 82.63 per cent. The interest charge per mile of road operated by the Brownsville in 1913 was \$1.496, whereas its net revenue available to pay interest was but \$1.135.

The revenues and expenses of the Brownsville are reported by the Interstate Commerce Commission as follows:

*Revenues and expenses.*

	1905	1906	1907	1908
Owned mileage.....	217.55	399.54	399.54	406.69
Operated mileage.....	233.75	415.74	415.74	451.29
Gross operating revenue.....	\$207,288.30	\$272,896.32	\$614,285.78	\$903,378.63
Operating expenses.....	\$113,932.81	\$170,963.53	\$366,872.18	\$619,426.71
Operating ratio.....	54.96	62.65	59.72	71.89
Net operating revenue.....	\$93,355.49	\$101,932.79	\$247,413.60	\$283,951.89
Gross revenue per mile operated.....	\$886.79	\$656.41	\$1,477.57	\$2,001.76
Operating expenses per mile operated.....	\$487.41	\$411.23	\$882.45	\$1,439.05
Net operating revenue per mile operated.....	\$339.38	\$245.18	\$595.12	\$562.71
Total funded debt, including equipment trust obligations.....	\$1,063,000.00	\$1,480,000.00	\$2,569,275.00	\$4,053,425.00
Interest on funded debt, including interest on equipment trust obligations.....	\$35,433.33	\$67,050.00	\$110,662.55	\$203,118.80
Average per mile of road:				
Funded debt per mile of road owned.....	\$4,886.23	\$3,704.25	\$6,430.58	\$9,966.86
Funded debt per mile of road operated.....	\$4,547.59	\$3,559.91	\$6,180.00	\$8,981.86
Interest on funded debt per mile of road operated.....	\$162.87	\$167.82	\$276.97	\$499.44
Ratio of net operating revenue to total funded debt.....	8.78	6.89	9.56	6.27
Ratio of interest on funded debt to net operating revenue.....	37.96	65.78	44.73	79.98

	1909	1910	1911	1912	1913
Owned mileage.....	411.19	448.77	463.91	463.91	477.80
Operated mileage.....	455.79	494.00	509.85	509.85	511.74
Gross operating revenue.....	\$1,315,766.65	\$1,612,214.62	\$1,907,360.74	\$2,399,793.78	\$2,930,691.75
Operating expenses.....	\$927,769.23	\$1,250,854.61	\$1,459,773.13	\$1,722,908.62	\$2,342,659.57
Operating ratio.....	70.51	77.59	76.53	71.79	79.94
Net operating revenue.....	\$387,997.42	\$361,360.01	\$447,587.61	\$676,885.16	\$588,032.18
Gross revenue per mile operated.....	\$2,886.78	\$3,263.59	\$3,741.02	\$4,706.86	\$5,660.55
Operating expenses per mile operated.....	\$2,035.52	\$2,532.09	\$2,863.14	\$3,379.24	\$4,524.78
Net operating revenue per mile operated.....	\$851.26	\$731.50	\$877.88	\$1,327.62	\$1,135.77
Total funded debt, including equipment trust obligations.....	\$5,141,000.00	\$10,351,000.00	\$10,362,868.60	\$11,427,000.00	\$12,179,105.98
Interest on funded debt, including interest on equipment trust obligations.....	\$229,641.29	\$470,658.88	\$622,195.27	\$687,685.29	\$706,052.03
Average per mile of road:					
Funded debt per mile of road owned.....	\$12,502.74	\$23,065.27	\$22,338.10	\$24,631.93	\$25,814.13
Funded debt per mile of road operated.....	\$11,279.32	\$20,953.44	\$20,325.32	\$22,412.47	\$23,523.59
Interest on funded debt per mile of road operated.....	\$558.48	\$1,048.77	\$1,341.20	\$1,482.37	\$1,496.51
Ratio of net operating revenue to total funded debt.....	7.55	3.49	4.32	5.92	4.83
Ratio of interest on funded debt to net operating revenue.....	59.19	130.25	139.01	101.60	120.07

The total capital liabilities of the Brownsville outstanding on June 30, 1913, were \$12,679,105.98, divided as follows:

Capital stock.....	\$500,000.00
Funded debt.....	12,147,105.98
Equipment trust notes.....	32,000.00
<b>Total.....</b>	<b>12,679,105.98</b>

All of the above securities excepting the \$32,000 equipment notes and \$900 par value of the capital stock which is held for qualifying directors are owned by New Orleans, Texas & Mexico Railroad. They were purchased by this company through funds advanced by the Frisco.

The total cost of the Brownsville on June 30, 1913, was \$12,701,822.54, of which amount \$1,207,069.65 represented the cost of equipment.

The Brownsville line was constructed by a syndicate. A summary of the syndicate's operations shows the following:

#### Receipts:

Balance of syndicate's funds unexpended.....	\$61,729.35
Proceeds from sale of securities to Frisco.....	11,827,200.00
Proceeds of land sales and cash donations.....	892,487.21
<b>Total.....</b>	<b>12,781,416.56</b>

#### Disbursements:

Cash paid to St. L., B. & M. Ry.....	200,000.00
For redemption of \$3,000,000 mortgage bonds and \$2,340,000 notes of St. L., B. & M. Ry., with interest.....	5,475,275.95
Payment to B. F. Yoakum for services and expenses.....	55,729.03
Miscellaneous indebtedness of syndicate.....	57,482.63
Distributed to syndicate subscribers.....	6,992,928.95
<b>Total.....</b>	<b>12,781,416.56</b>

The syndicate members contributed toward the construction of the road \$3,980,999.20, thus realizing a profit of \$3,011,929.75. This profit includes the proceeds of land sales and cash donations, amounting to \$892,487.21.

While the disbursements by the syndicate amounted to \$12,781,416.56, a statement obtained from the St. Louis Union Trust Co. indicates that the syndicate had expended in constructing and equipping the Brownsville but \$9,708,758.26. The records of the Brownsville, however, show that \$8,932,080.78 was spent by the syndicate to December 1, 1909. The difference of over \$770,000 represents expenditures made by the syndicate on account of the Houston Belt and Terminal Railway. The records of the Brownsville show the following expenditures:

Construction, Johnson Bros.....	\$4,565,580.05
Construction, P. M. Johnson.....	990,807.62
Advances to St. Louis, Brownsville & Mexico Ry.....	1,816,577.44
Equipment.....	959,124.31
Right of way and terminal grounds.....	26,345.25
Loans and notes.....	55,530.97
Operating expenses.....	41,804.66
Supplies and wages.....	76,546.51
Interest, commissions, and miscellaneous expenses.....	399,763.97
<b>Total.....</b>	<b>8,932,080.78</b>

In 1910 the Texas Railway Commission valued the properties of the Brownsville and authorized it to issue securities to the extent of \$10,756,000. Under that authority the Brownsville issued \$10,250,000 first-mortgage 6 per cent bonds, dated December 1, 1909, due December 1, 1939, and reduced its capital stock from \$1,221,550 to \$500,000. These securities were taken by the syndicate as the purchase price of the property and \$200,000 in cash, which sum was deposited to the credit of the Brownsville. (I. C. C., vol. 29, p. 193.)

B. F. Yoakum, chairman of the Frisco, in a statement of December 16, 1913, alleged that the syndicate which constructed the Brownsville line had no purchase agreement with the St. Louis & San Francisco. Yoakum admits that the acquisition of the Brownsville and the Gulf Coast lines by the Frisco have



proven unprofitable. He attributes the poor showing of the Brownsville to the disastrous floods of 1911 and 1912 and to the war in Mexico. The Frisco management had counted on a large interchange of traffic with the national lines of Mexico, and to facilitate such interchange had jointly with the national lines of Mexico constructed a bridge across the Rio Grande River.

B. F. Yoakum advised the stockholders of the Frisco to retain the Gulf Coast lines. He says, in part:

"The New Orleans, Texas & Mexico line (Gulf Coast lines, including the Brownsville) covers the richest and most prosperous sections of the entire eastern hemisphere, and, while criticism has been made of this acquisition, I predict that if it is eliminated under the reorganization of the Frisco, its loss will be as much regretted as its ownership is now criticized."

#### RECEIVERSHIP OF ST. LOUIS & SAN FRANCISCO RAILROAD CO.

St. Louis & San Francisco Railroad Co., hereafter referred to as the Frisco, was incorporated January 29, 1896, under the laws of Missouri as a reorganization of the St. Louis & San Francisco Railway Co. Receivers for the Frisco were appointed on May 27, 1913. On July 19, 1916, the properties were sold at foreclosure sale for \$45,700,200 in accordance with a reorganization plan outlined below.

In considering the affairs of the Frisco reference will be made to the

1. Mileage operated.
2. Appointment of receivers.
3. Findings of Interstate Commerce Commission.
4. Chairman B. F. Yoakum's defense.
5. Capitalization per mile.
6. Reorganization plan.
7. Discharge of receivers.

#### 1. MILEAGE OPERATED.

The Frisco system originally comprised 1,100 miles of road. From time to time various other lines were built or absorbed until as of November, 1916, the St. Louis & San Francisco Railway Co. (new company organized Aug. 24, 1916) operated either directly or through subsidiaries a total of 5,339 miles of road, of which 3,462 miles were owned in fee, 1,672 miles controlled through ownership of substantially all of the capital stock, and 205 miles were operated under trackage rights. The lines of the system as reorganized extend from St. Louis into the States of Kansas, Arkansas, Oklahoma, and Texas. The Frisco, through stock ownership, controls the Kansas City, Fort Scott & Memphis Railway Co., which gives it a direct through route for traffic from Kansas City to Memphis, Tenn., and Birmingham, Ala.

The mileage operated is located in the following States:

	Miles.
Alabama.....	132. 49
Arkansas.....	601. 43
Kansas.....	629. 64
Missouri.....	1, 719. 90
Mississippi.....	142. 86
Oklahoma.....	1, 507. 64
Tennessee.....	18. 34
Texas.....	504. 72
Total.....	5, 257. 02

Since June 30, 1916, the 82-mile line of the Quannah, Acme & Pacific Railway has been acquired, making a total mileage of 5,339.

At the time of the appointment of receivers (May 27, 1913) the Frisco controlled through stock ownership the New Orleans, Texas & Mexico Railroad Co. and the Chicago & Eastern Illinois Railroad Co. Control of the former company was acquired to secure traffic in southern Texas, while the latter was acquired to obtain an entrance into Chicago. The investment in both of these roads has proved burdensome and disastrous to the Frisco lines and they are therefore omitted in the reorganization plan. The status of Chicago & Eastern

Illinois and the New Orleans, Texas & Mexico is discussed in another part of this report.

Attached to the following page is a map showing the location of the Frisco lines as the same existed after the reorganization in 1916. The map, however, shows the location of the Chicago & Eastern and also of the New Orleans, Texas & Mexico and its subsidiary, the St. Louis, Brownsville & Mexico.

## 2. APPOINTMENT OF RECEIVERS.

On May 27, 1913, Judge W. H. Sanborn in the United States District Court at St. Louis appointed Benj. L. Winchell, president of the company, and Thos. H. West, chairman of the board of directors of the St. Louis Union Trust Co., receivers of the Frisco. On July 7, 1913, the court appointed Vice President W. C. Nixon and W. H. Biddle as coreceivers with Thos. H. West to succeed Benj. L. Winchell. On December 8, 1913, Thos. H. West resigned and was succeeded by James W. Lusk, an attorney of St. Paul. The immediate cause of the receivership was the inability of the company to persuade Speyer & Co. and other bankers to extend the payment of \$2,500,000 face value of short-term notes.

In its issue of January 2, 1914, the *Railway Age Gazette* (vol. 56, p. 4) referring to the receivership of the Frisco says in part:

"The state of the money market was an important direct contributing cause of the receivership of the St. Louis & San Francisco and of its leased lines, the Chicago & Eastern Illinois, the New Orleans, Texas & Mexico and the St. Louis, Brownsville & Mexico. \* \* \*

"The receivership proceedings of the Frisco were, it is supposed, the result of the decision of B. F. Yoakum and his associates to try and retain their control and preserve the interests of the stockholders by being the first to invoke the aid of the courts. The decision followed upon the refusal of Speyer & Co., of New York, and other eastern bankers to provide for \$2,250,000 maturing notes, except on conditions which Mr. Yoakum would not accept.

"The underlying causes of the Frisco receivership may be classed together as different manifestations of the working out of the ambition on the part of those who had control of the property to develop a railroad system in the Southwest without adequate credit and by the use of a company—the St. Louis & San Francisco—already top-heavily capitalized and with a burden of a guaranty on its Chicago & Eastern Illinois stock that was too heavy for it to carry. The Chicago & Eastern Illinois, valuable railroad property as it is, was not able to earn the 10 per cent dividend which was provided for in the lease and the deficit was of course made up out of the Frisco earnings. The Frisco itself was, like other roads in the Southwest, made up of various branches, some of which were in far better physical shape than others. The property was in need of intensive development, instead of which, its credit was used for the financing of extensive developments."

In its issue of May 31, 1913, the *Commercial and Financial Chronicle* (vol. 96, p. 1557) quotes President Winchell as saying:

"Receivership follows a good deal of bad luck in the shape of floods, unfavorable money conditions, and maturities coming due when investors are not particularly attracted by railroad securities or other obligations. The properties are perfectly sound and will continue to give a first-class account of themselves."

In the same issue of the *Commercial and Financial Chronicle*, Director Eugene B. R. Thayer (president of the Merchants' National Bank of Boston) is quoted as saying:

"Frisco receivership is due primarily to existing financial conditions which prevent its financing maturing obligations. Besides this, there were some very heavy guaranties made in the old days of the Frisco which have served as a drag. As to the future of the company I am satisfied it will be all right in time."

In the opinion of the *Commercial and Financial Chronicle*, the difficulties of the Frisco were principally due to the recent inability of the Chicago & Eastern Illinois to earn the dividends guaranteed on its stock by the St. Louis & San Francisco and the burden of certain other branch lines. The trouble was precipitated, however, by the unsuccessful effort to renew the \$2,250,000 of two-year 5 per cent notes due June 1, 1913.

Various classes of creditors joined in the application for the appointment of receivers of the Frisco.

In its decision of January 20, 1914, the Interstate Commerce Commission (vol. 29, I. C. C., p. 139) reports that the insolvency of the Frisco may be attributed to the following causes:

1. Disproportionate capitalization.
2. The acquisition of new lines.
3. The financing by the Frisco of the New Orleans, Texas & Mexico Railroad and other south Texas lines.
4. The desire for an entrance into Chicago, Ill., resulting in the assumption of heavy, fixed charges in the acquisition of the stock of the Chicago & Eastern Illinois Railroad.
5. The sale of its securities so low as to indicate a deplorable weakened credit or an extravagant arrangement with bankers to whom large profits accrued in the purchase of the bonds and the subsequent sale of the same to the public.
6. Payments of dividends on its preferred stock in spite of its weakened credit and need of money, expensive rentals and poor investments, among which are the investments of the New Orleans Terminal Co., stock in the Kirby Lumber Co., and rentals paid to Crawford Mining Co.

### 3. FINDINGS OF INTERSTATE COMMERCE COMMISSION.

On January 20, 1914, the Interstate Commerce Commission submitted to the United States Senate its findings in the matter of the appointment of the receivers for the St. Louis & San Francisco Railroad Co. and the Chicago & Eastern Illinois Railroad Co. As stated above, the commission finds that the insolvency of the Frisco may be attributed to (1) disproportionate capitalization; (2) acquisition of new lines; (3) the financing by the Frisco of the New Orleans, Texas & Mexico Railroad Co. and other south Texas lines; (4) the purchase of a controlling stock interest in the Chicago & Eastern Illinois; (5) the sale of securities at exorbitant discounts; (6) payment of dividend on its preferred stock in spite of its weakened credit and need of money, poor investments, and expensive rentals.

For the purpose of this report the commission's findings may be summarized under the following headings: (*a*) Reorganization in 1896, (*b*) capitalization, (*c*) acquisition of new lines, (*d*) profits to syndicates, (*e*) securities owned and method of acquiring them, (*f*) discounts, (*g*) revenues, etc.

(*a*) *Reorganization in 1896.*—St. Louis & San Francisco Railroad Co., successor to St. Louis & San Francisco Railway Co., began its operations July 1, 1896, under a plan of reorganization dated April 21, 1896.

The old company passed through receivership on account of default in the interest on the St. Louis & San Francisco Railway Co.'s consolidated mortgage 5 per cent 100-year bonds, dated June 11, 1891. Under the reorganization plan a 10 per cent assessment was levied upon the holders of the \$8,000,000 of bonds in default. In exchange for a \$1,000 bond and the payment of the 10 per cent assessment, or \$100 per bond, the holder of the bonds in default received \$670 par value of a new bond issue, \$140 of first preferred stock, \$1,000 of second preferred stock, \$1,800 of common stock of the new company.

The capital obligations of the St. Louis & San Francisco Railway Co., at the time of the former receivership, amounted to \$68,746,726.20, of which \$42,387,426.20 was represented by bonds and \$26,359,300 by stock.

(*b*) *Capitalization.*—Under the reorganization plan, the new company began operation with a total capitalization of \$80,974,438.70, or an increase of \$12,227,712.50. Of the capitalization of the new company \$36,383,626.20 was represented by bonds and \$44,590,812.50 by stock.

On May 27, 1913, the capitalization of the Frisco amounted to \$295,633,933.72, of which \$51,364,100 was represented by capital stock and \$244,269,833.72 was represented by funded debt, including equipment trust notes.

A segregation of the total capitalization shows the following percentages:

Date.	Stock.	Bonds.
Immediately prior to receivership in 1896.....	38	62
Immediately after reorganization in 1896.....	55	45
Immediately prior to receivership in 1913.....	17	83

The funded debt of the Frisco on June 30, 1897, the first year after reorganization, amounted to \$37,288,850, covering 1,145 miles. The average per mile of



funded debt amounted to \$32,566.70. On May 27, 1913, the funded debt, including \$10,423,937.68 of equipment trust notes, amounted to \$244,003,958.72, covering 3,552.59 miles of owned line, or an average of \$69,268.34 per mile. The interest-bearing debt had been increased \$206,715,108.72, or 554 per cent, since 1897, while the owned mileage had been increased 208 per cent and the average per mile had been increased \$36,701.64, or 112 per cent. The foregoing figures include \$28,582,930.01 of the Frisco-New Orleans, Texas & Mexico division bonds outstanding, which are both a direct and indirect lien on the south Texas lines. If these were excluded the result would be: Total increase to May 27, 1913, \$178,132,178.71. Increase, per cent, 0.477. Average per mile, \$61,154.16. Increase per mile, \$28,587.46.

To acquire capital stock of the Chicago & Eastern Illinois and the Kansas City, Fort Scott & Memphis Railway, the Frisco issued:

Stock trust certificates for Chicago & Eastern Illinois common stock	\$18,044,500
Stock trust certificates for Chicago & Eastern Illinois preferred stock	12,603,750
Stock trust certificates for Kansas City, Fort Scott & Memphis preferred stock	15,000,000
Total	45,648,250

The commission finds that, exclusive of the New Orleans, Texas & Mexico division bonds, the Frisco's funded debt as of May 27, 1913, had increased by the amount of \$178,132,178.71, while its notes outstanding at the same period aggregated \$5,413,765.42. The fixed and floating debt had been thus increased by the amount of \$183,545,944.13, whereas the property expenditures from June 30, 1897, to May 27, 1913, aggregated \$103,275,651.21. The increase in fixed and floating debt, above referred to, the commission summarized as follows:

Property expenditures	\$103,275,651.21
Funded debt issued for stock of Chicago & Eastern Illinois Railroad and Kansas City, Fort Scott & Memphis Railway	45,648,250.00
Discount on funded debt	28,828,362.72
Total	177,752,263.93

(c) *Acquisition of new lines.*—The commission finds that in acquiring new lines the Frisco pursued various methods. In numerous instances it purchased new lines constructed by syndicates, in which members of the board of directors of the Frisco were interested. In other instances the control of new lines was obtained through the purchase of stock. A brief summary of the commission's findings relating to the acquisition of new lines may be of interest.

On October 15, 1901, a syndicate composed of 51 members was formed to construct the lines of the Oklahoma City & Western Railroad Co. The proposed subscription amounted to \$2,148,000. Of the original amount proposed, \$2,097,043.95 was subscribed. The line was completed on March 10, 1903, and sold to the Frisco at a price which netted the subscribers a profit of \$396,278.82.

In July, 1902, a syndicate was formed for the purpose of financing the construction of the lines of the St. Louis, San Francisco & New Orleans Railroad Co. The proposed subscription of this syndicate amounted to \$5,300,000. In November, 1903, the syndicate was dissolved and the subscribers given \$5,888,888.88 in 4 per cent bonds of the St. Louis, San Francisco & New Orleans Railroad Co. and \$1,060,000 of the preferred stock of the same company. These securities were later refunded through subsequent security issues of the Frisco on the basis of 90 for the bonds and 79 for the preferred stock, resulting ultimately in a profit of \$837,400 to the syndicate members.

On April 10, 1902, a syndicate of 50 members was formed to purchase the properties of the St. Louis & Gulf Railroad Co. The proposed subscription, all of which was paid in, amounted to \$2,700,000.

The St. Louis & Gulf Railroad Co. was subsequently consolidated with the St. Louis, Memphis & Southeastern Railroad and sold to the Frisco, the latter company assuming the bonds outstanding against the property.

The syndicate received \$4,920,000 of the bonds of the St. Louis & Gulf Railroad, of which it used \$173,000 to defray its expenses. The balance was exchanged for 4½ per cent bonds of the St. Louis, Memphis & Southeastern Railroad on the basis of \$903.33 for each bond of the old company. The new company thus issued bonds in the amount of \$4,288,123.17, which were sold through Harvey Fisk & Co. for \$4,085,696.52 cash. As a result of these transactions

there was distributed to the syndicate subscribers a profit amounting to \$1,385,696.52.

On December 21, 1897, a syndicate composed of 35 members was formed for the purpose of financing the construction of the lines of the St. Louis & Oklahoma City Railroad Co. The proposed subscription of \$1,000,000 was paid in and in April, 1899, the property was sold to the Frisco for \$1,868,700, resulting in a profit, after payment of sums due contractors, to the subscribers of \$656,150.

On January 10, 1900, a contract was executed between Johnson Bros. & Faught and the St. Louis, Oklahoma & Southern Railway Co. for the construction of its lines. The contractors were to receive \$5,500,000 in capital stock and bonds in the sum of \$22,500 per mile, but not to exceed the sum of \$4,500,000. On January 23, 1900, the contractors agreed to sell the bonds to three trust companies and two individuals, one of whom was B. P. Cheney, a director of the Frisco. The sale price of the bonds was fixed at 78½. The payment of the bonds was guaranteed by the Frisco. Later the Frisco acquired the lines of the St. Louis, Oklahoma & Southern, assumed the payment of the bonds which were subsequently refunded through the issue of Frisco refunding bonds on the basis of 95 for the bonds of the old company. These transactions resulted in a profit to the trust companies and individuals amounting to \$719,574.90.

On June 16, 1902, a syndicate composed of 61 members was formed to purchase the securities of the Arkansas Valley & Western Railroad Co. The proposed subscription was \$3,190,000, of which \$3,046,625 was paid in by the subscribers. On March 1, 1904, the property was sold to the Frisco for \$3,825,000, payable one-third cash and two-thirds in notes. The notes were subsequently paid in cash. After paying amounts due to contractors the profit to the syndicate members amounted to \$589,767.32.

The lines of the New Iberia & Northern Railroad Co. and Iberia, St. Mary & Eastern Railroad Co. were constructed with funds contributed by or through a syndicate composed of 20 members, many of whom were directly interested in the Frisco. Of the \$2,000,000 necessary, approximately \$1,000,000 was subscribed in cash and the balance was secured from the St. Louis Union Trust Co. of St. Louis and the Canal Louisiana Bank of New Orleans, La., upon notes of the syndicate subscribers. An amount less than \$2,000,000 was expended on the properties which on May 24, 1913, together with the capital stock of the two companies, was purchased by the Frisco for \$2,493,088.83. After making allowance for amounts due contractors, the commission estimates the profits of the syndicate subscribers at \$500,000.

The commission further finds that the profits of the syndicate subscribers who financed the construction of the St. Louis, Brownsville & Mexico Railway, and the Colorado Southern, New Orleans & Pacific Railroad, aggregated \$3,386,928.95.

A summary of the amounts subscribed by the syndicate subscribers and advanced by trust companies in the construction of the foregoing mentioned properties and profits realized by syndicates and trust companies on the sale thereof to the Frisco shows the following:

Name of railroad.	Amount paid in.	Profit.
Oklahoma City & Western.....	\$2,097,043.95	\$360,278.82
St. Louis, San Francisco & New Orleans.....	5,300,000.00	837,400.00
St. Louis & Gulf.....	2,700,000.00	1,385,696.52
St. Louis & Oklahoma City.....	1,000,000.00	656,150.00
St. Louis, Oklahoma & Southern.....	3,423,432.10	719,574.90
Arkansas Valley & Western.....	3,046,635.00	589,767.32
New Iberia & Northern.....	2,000,000.00	500,000.00
St. Louis, Brownsville, & Mexico.....	3,981,000.00	3,011,928.95
Colorado Southern, New Orleans & Pacific.....	3,000,000.00	375,000.00
Total.....	26,548,111.05	8,444,796.51

To secure for itself and its subsidiary companies terminal facilities in New Orleans, the Frisco, together with the Southern Railway Co., caused the organization of the New Orleans Terminal Co. This company has an authorized capital stock of \$2,000,000 and \$14,000,000 of 4 per cent bonds. One-half of the

capital stock is owned by the Frisco and one-half by the Southern. The two companies have guaranteed by indorsement the bonds of the terminal company. The commission found that the Frisco had no lines to New Orleans and therefore did not use the terminal property. Its proportion of the terminal company's interest charge amounted to \$280,000 per annum, while the revenues received from the terminal properties were less than \$50,000 per annum. The Frisco reduced its annual loss resulting from this transaction by assessing approximately 15½ per cent against the New Orleans, Texas & Mexico Railroad, leaving a net loss of about \$180,000 per annum.

In January, 1903, the Kirby Lumber Co. executed three notes for \$200,000 each, payable to B. F. Yoakum, James Campbell, and Henry Clay Pierce, for money advanced by them to the Lumber Co. Shortly thereafter these notes were purchased by the Frisco at their face value and interest. Later they were surrendered to the Lumber Co. as part of the purchase price of 8,150 shares of its preferred stock at \$75 per share.

In July, 1903, the Frisco purchased 8,500 additional shares of this stock, making its total investment therein \$1,248,750. The preferred stock of the Lumber Co., outstanding, totaled \$10,000,000. The Frisco paid J. W. Bailey \$25,000 for his services in acquiring this stock and charged that amount to the cost of the securities of the Lumber Co.

No dividends have ever been paid upon this stock. At 4 per cent the interest upon this investment would approximate \$50,000 per annum, and on that basis the loss amounts to about \$500,000. It is possible, however, that this was compensated for in some measure by securing traffic for the Frisco through its influence as a stockholder in the Lumber Co.

In the purchase of the preferred stock of the Lumber Co. the Frisco received as a bonus 2,775 shares of the common stock, which it subsequently sold for \$50,000; this with several minor adjustments left the net cost of the 16,650 shares \$1,226,208.

For the right of placing cars at the mines of the Crawford County Mining Co., operating at Pittsburg, Kans., a concern controlled by the Chicago, Rock Island & Pacific Railway, the Frisco, on March 30, 1907, entered into a contract which imposed upon it an annual charge of about \$27,000.

To secure an entrance into Chicago, the Frisco in 1902 proceeded to acquire control of the Chicago & Eastern Illinois Railroad Co.

In exchange for each share of preferred stock of the Chicago & Eastern Illinois the Frisco delivered \$150 of its 6 per cent preferred-stock trust certificates, payable July 1, 1942; while in exchange for each share of common stock of the Chicago & Eastern Illinois the Frisco delivered \$250 of its 10 per cent common-stock trust certificates, payable July 1, 1942.

On May 27, 1913, the liability of the Frisco, represented by Chicago & Eastern Illinois stock-trust certificates, amounted to \$18,044,500 on the common stock and \$12,603,750 on the preferred stock, making a total of \$30,648,250. Of this amount the Frisco had acquired \$2,520,000 of the common-stock trust certificates at a cost of \$1,884,320, leaving outstanding in the hands of the public \$15,524,500 of the common certificates and \$12,603,750 of the preferred certificates, or a total of \$28,128,250. As a result of this transaction the Frisco obligated itself to pay annually 10 per cent on the common-stock trust certificates and 6 per cent on the preferred-stock trust certificates. The annual dividends paid by the Chicago & Eastern Illinois Railroad Co. from 1903 to 1913 have been inadequate to make these payments. The deficit had to be advanced by the Frisco and amounted to \$2,057,073.

On June 29, 1901, an agreement was executed between the Kansas City, Fort Scott & Memphis Railroad Co. and the Kansas City, Fort Scott & Memphis Railway Co., a newly organized company, under which agreement the latter company was to acquire the properties and franchises, subject to all existing liens, and also the current assets and liabilities of the former company. The purchase price was \$14,275,600, payable within 60 days to the Mercantile Trust Co. for payment to the holders of \$2,750,000 of preferred stock at \$150 per share and to holders of \$10,150,600 of common stock at \$100 per share. To quote from the commission's report:

"A series of agreements was entered into under date of June 24, 1901, between parties interested, one of which was between the railway company and Mark T. Cox, James A. Blair, H. C. Pierce, Isaac N. Seligman, and J. Kennedy Tod, a committee under a syndicate agreement dated March 8, 1901. The syndicate had purchased \$10,095,800 of the common stock and \$2,670,300 of the preferred stock of the railroad company and was to pay the purchase price to the



Mercantile Trust Co. for account of the railway company. The syndicate was to also pay for certain construction of the Kansas City, Fort Scott & Memphis Railway Co., of Oklahoma, and to transfer the entire capital stock of that company to the railway company. They were also to pay the cost of relaying new rail between Baxter Springs and Miami, Okla., and to transfer to the railway company 29,427 shares of the capital stock of the Kansas City, Memphis & Birmingham Railroad.

"In order to secure the funds necessary to finance this arrangement the railway company issued to the above-named committee \$11,650,000 of its refunding mortgage bonds secured by the property purchased, \$13,510,000 of its preferred capital stock, and \$15,000,000 of its common stock. The Frisco was to guarantee the mortgage bonds and was to issue \$13,510,000 of its 4 per cent preferred-stock trust certificates in exchange for the preferred stock of the railway company upon deposit by the committee with a trust company of preferred stock of the railway company in the same amount, and in addition was to receive the entire issue of the common stock of the railway therefor. The committee were to offer to the stockholders of the Frisco the right of subscription to the mortgage bonds and preferred-stock certificates, the offering to consist of \$25 in bonds and \$29 in Frisco stock-trust certificates for a cash payment of \$42.50. The syndicate was to underwrite the subscription, which amounted to \$19,795,770.50. Of this amount the syndicate subscribed \$14,266,203.75, which included \$66,358.75 interest, and the balance was subscribed by Frisco stockholders."

The result of this transaction was that the new company (Kansas City, Fort Scott & Memphis Railway Co.) by acquisition of the Current River Railroad and by new lines constructed increased its operated mileage from 719.45 miles in 1900 to 850.79 miles in 1901. The \$18,529,600 funded debt of the old company (Kansas City, Fort Scott & Memphis Railroad Co.), \$1,606,000 bonds of the Current River Railroad, \$481,510 equipment bonds, and \$11,650,000 bonds of the new company were assumed by the Kansas City, Fort Scott & Memphis Railway Co. This resulted in a total increase in the funded debt of \$13,737,510, while \$28,510,000 of capital stock of the new company was issued in lieu of \$12,900,600 of stock of the old company, or a total increase in capital of \$29,346,910, as against an increase in mileage of 131½ miles.

The properties of the Kansas City, Fort Scott & Memphis Railway Co. were leased to the Frisco on August 23, 1901, for the term of corporate existence of the Frisco. The lease provides for the payment of the interest on the bonds, 4 per cent dividends on the preferred stock, and all other charges. The Kansas City, Fort Scott & Memphis Railroad Co. has never paid any dividends on its stock, while the only dividend paid by its predecessor was 5 per cent on the preferred stock in 1900. In spite of this dividend record the Frisco obligated itself to pay 4 per cent on the preferred stock and purchase the property on a basis of par for the common stock and \$150 per share for the preferred stock.

The construction and financing of the St. Louis, Brownsville & Texas and the New Orleans, Texas & Mexico Railroad, formerly known as the Colorado Southern, New Orleans & Pacific Railroad Co., as well as their relations to the Frisco are considered in another part of this report. By means of the organization of these companies and the construction of their lines, the Frisco had hoped to secure large traffic from southern Texas and Louisiana. The lines extended from New Orleans to Brownsville, Tex. Other lines in Texas in which the Frisco was interested, through stock ownership, were the Beaumont, Sour Lake & Western, the Orange & Northwestern, the Paris & Great Northern, the St. Louis, San Francisco & Texas, the Fort Worth & Rio Grande, and the Brownsville North & South Railway Co.

(d) *Profits to syndicates.*—The profits realized by syndicates organized to construct, finance, or acquire lines for the Frisco are shown in the table on a preceding page.

(e) *Securities owned and method of acquiring them.*—The Interstate Commerce Commission in its report shows securities owned by the Frisco and the cost of acquiring the same, as follows:

Stocks and bonds of railway, bridge, and terminal companies owned by the St. Louis & San Francisco Railroad and securities controlled through ownership of stock of the Kansas City, Fort Scott & Memphis Railway and the New Orleans, Texas & Mexico Railroad.											
Name of corporation.	Class of securities.	Total issues, par value.	Owned by St. Louis & San Francisco Railroad, par value.	Controlled through lease of Kansas City, Fort Scott & Memphis, par value.	Per cent of ownership.	Time acquired.	Cash.	Cash—treasury reimbursed by bonds.	Direct exchange of securities.	Miscellaneous.	Remarks.
Birmingham Belt Ry. Co.	Stock.	\$50,000	\$50,000		100	Nov., 1902-June, 1903.	\$16,936				
Metropolitan Rapid Transit, Light & Power Co.	do.	20,200	20,200		100	do.					
Birmingham Terminal Co.	do.	150,000	25,000		16 2/3	July, 1905.	500				
Kansas Southern Ry. Co.	do.	362,000	181,000		50	Oct., 1902.	181,045				
Intermittent Vacuum Pre-Cooling Co.	do.	61,000	60,000		100	Mar., 1912.	60,000				
West Tulsa Belt.	Bonds.	30,500	30,500		100	Dec., 1911.	30,393				
Kansas City Terminal Ry. Co.	Stock.	1,201,000	100,000		8 1/2	Jan., 1908.	100,000				
New Orleans, Mobile & Chicago R. R. Co.	Preferred stock.	2,607,000	210,615		10	July-Oct., 1911.	359,907				
Do.	Common stock.	8,075,300	2,385,254		30	do.					
Rio Grande Ry. Co.	Stock.	25,000	25,000		100	Aug., 1912.	25,000				
Wichita Union Terminal Co.	do.	100,000	25,000		25	May-Nov., 1911.	12,500				
Quannah, Acme & Pacific R. R. Co.	do.	100,000	60,000		60	Oct., 1911.	76,755				
Brownsville Street & Interurban Ry.	do.	10,000	10,000		100	Feb., 1912.	5,000				
Frisco Refrigerator Line.	do.	5,000	5,000		100	Aug., 1911.	5,000				
Brownwood North & South Ry. Co.	do.	325,000	225,000		100	June, 1912.	\$225,000				Note A.
Do.	Bonds.	91,000	91,000		100	do.	21,575				
Fort Worth & Rio Grande Ry. Co.	Stock.	2,928,300	2,928,300		100	July, 1901-June, 1911.	2,638,192				Do.
Do.	Bonds.	1,514,000	1,514,000		34.6	do.					
New Orleans, Texas & Mexico R. R. Co.	Stock.	2,000,000	1,994,800		99.7	Apr., 1906.	2,476,950				Note B.
St. Louis, San Francisco & Texas Ry.	do.	801,000	801,000		100	July, 1901.	\$4,650,000				Note C.
Do.	Bonds.	201,000	200,000		100	do.					Note D.
Chicago & Eastern Illinois R. R.	Preferred stock.	12,146,500	8,402,500		69	Nov., 1902-May, 1913.	12,007,750				Do.
Do.	Common stock.	13,628,100	7,217,800		53	Nov., 1902-Feb., 1904.	18,239,187				
Kansas City, Fort Scott & Memphis Ry. Co.	Preferred stock.	15,000,000	15,000,000		100	Sept., 1901-June, 1911.	13,510,000		(1)		Note E.
Do.	Common stock.	16,660,000	16,660,000		100	do.					
Kansas City, Memphis & Birmingham R. R.	Stock.	5,976,000	\$5,976,000		100	Sept., 1901.	339,500				Note F.
Do.	Income bonds.	6,322,780	339,500		6.3	Nov., 1901.					Note C.
Paris & Great Northern R. R. Co.	Stock.	500,000	500,000		100	July, 1896.				\$1	
Do.	Bonds.	339,000	339,000		100	do.					
Memphis R. R. Terminal Co.	Stock.	100,000	10,000		10	do.					
New Orleans R. R. Terminal Co.	do.	2,100,000	1,000,000		50	do.					
Terminal R. R. Association of St. Louis.	do.	3,000,800	205,800		6 2/3	do.					Note H.

Cape Girardeau Northern Ry. Co.	Bond's	1,087,000	16,000	1	Mar., 1913.	13,000	Note L.
Rock Island Frisco Terminal Co.	Stock.	500,000	200,000	40	Mar., 1907 - Nov., 1908.		Note J.
New Iberia & Northern R. R. Co.	do.	1,500,000	1,000,000	100	May, 1913	1,544,299	Note K.
Iberia, St. Mary & Eastern R. R. Co.	do.	5,000	5,000	100	do.	898,789	Do.

<sup>1</sup> Expenditures for additions and betterments, \$3,150,000.

NOTE.—Continued on following page.



*Stocks and bonds of railway, bridge, and terminal companies owned by the  
St. Louis & San Francisco Railroad—Continued.*

Name of corporation.	Class of securities.	Total issues, par value.	Controlled by St. L. & S. F. R. R., par value.	Per cent of ownership.	Time acquired.	Book value.	Remarks.
St. Louis, Brownsville & Mexico Ry. Co.	Stock	\$500,000.00	1 \$499,100.00	99.5	May, 1913	\$1,932,192.17	Note L.
Do.	Bonds	12,147,105.08	12,147,105.08	100.0	May, 1910-June, 1913	12,128,937.28	Do.
Houston Belt & Terminal Ry. Co.	Stock	25,000.00	12,500.00	50.0	Aug. 1908	12,500.00	Note M.
Brownsville & Matamoros Bridge Co.	do.	500,000.00	249,700.00	49.7	May, 1910	249,700.00	Note N.
The Beaumont, Sour Lake & Western Ry. Co.	do.	85,000.00	1 \$1,100.00	99.0	May, 1906-Oct. 1912	390,475.42	Note L.
Do.	Bonds	2,007,250.74	2,007,250.74	100.0	do.	2,007,250.74	Do.
The Orange & Northwestern R. R. Co.	Stock	35,000.00	1 \$1,500.00	90.0	May, 1906	260,686.99	Do.
Do.	Bonds	1,066,946.51	1,066,946.51	100.0	Oct. 1910	1,066,946.51	Do.

<sup>1</sup> The difference between total issues and amount controlled represents shares for qualifying directors.

NOTE A.—Stock and bonds of the Brownwood North & South Railway were received in return for cash advances made to that company for account of construction. Cash principally was paid to F. B. Hollis for the stock of the Fort Worth & Rio Grande Railway. A portion of this stock and the bonds were received in reimbursement for cash advanced. The Frisco secured from the trustee of the refunding mortgage \$2,812,900 in reimbursement for the foregoing expenditures in accordance with the terms of the indenture.

NOTE B.—All of the capital stock of the Colorado Southern, New Orleans & Pacific Railway, except qualifying directors' shares, and \$1,000,000 par value of the first mortgage bonds were acquired from the Colorado Southern, New Orleans & Pacific Railroad for \$2,476,950 in cash. These funds were obtained through a sale of \$7,500,000 of Frisco collateral trust five-year 5 per cent notes sold to Blair & Co. at various dates, commencing with April, 1906, at 94.36. The remainder of the proceeds of this sale was advanced to the Colorado Southern, New Orleans & Pacific Railway for construction and other purposes. The name of this company was changed in March, 1910, to the New Orleans, Texas & Mexico Railroad Co.

NOTE C.—The Frisco issued \$4,650,000 of Frisco-St. Louis, Oklahoma & Southern Railway first mortgage bonds, receiving in exchange an equal amount of the bonds of the St. Louis, Oklahoma & Southern Railway, \$5,500,000 of the stock of that company, and \$804,000 of the stock and \$200,000 of the bonds of the St. Louis, San Francisco & Texas Railway. The exchange of these securities was effected through the St. Louis Union Trust Co.

NOTE D.—The preferred and common stock of the Chicago & Eastern Illinois Railroad was acquired subsequently to September, 1902, by exchange of Frisco 6 per cent preferred-stock trust certificates and its 10 per cent common-stock trust certificates on the basis of \$150 for the preferred stock and \$250 for the common stock.

NOTE E.—The Frisco acquired \$13,510,000 par value of the preferred stock of the Kansas City, Fort Scott & Memphis Railway and \$15,000,000 of the common stock of that company in September, 1901, by an exchange with a syndicate committee of Frisco-Kansas City, Fort Scott & Memphis preferred-stock trust certificates in amount equalling the par value of the preferred stock thus acquired. An additional block of \$3,150,000 of the preferred stock was received by the Frisco in reimbursement for cash advanced by the Frisco for additions and betterments made to the property of the Kansas City, Fort Scott & Memphis Railway.

NOTE F.—The income bonds of the Kansas City, Memphis & Birmingham Railroad were acquired by the Frisco for account of the Kansas City, Fort Scott & Memphis Railway, that company issuing to the Frisco an equal amount of its refunding bonds in reimbursement. The stock of the Kansas City, Memphis & Birmingham was acquired in 1888 by the Kansas City, Fort Scott & Memphis Railroad, and was sold to the Kansas City, Fort Scott & Memphis Railway Co., its successor, in the sale of the property and assets to that company in 1901.

NOTE G.—Stock and bonds of the Paris & Great Northern Railroad Co. were acquired by the Frisco from the St. Louis & San Francisco Railway Co. through the reorganization committee at the time of the receivership in 1896.

NOTE H.—The stocks of the Memphis Railroad Terminal Co., the New Orleans Railroad Terminal Co., and Terminal Railroad Association of St. Louis were received by the Frisco as bonuses for cash advanced from time to time to those companies, which advances were subsequently liquidated by the debtor companies, the securities being carried at a nominal book value of \$1.

NOTE I.—The bonds of the Cape Girardeau Northern Railway Co., amounting to \$16,000, were received by the Frisco in March, 1913, in settlement of traffic balances and miscellaneous bills due from that company.

NOTE J.—The stock and bonds of the Rock Island-Frisco Terminal Co. were received in reimbursement for cash advanced by the Frisco for the construction of the terminal property. The Rock Island lines are joint users of this property and also contributed advances in a manner similar to that employed by the Frisco.

NOTE K. The stocks of the New Iberia & Northern Railroad Co. and the Iberia, St. Mary & Eastern Railroad Co. were acquired in May, 1913, under an agreement dated September 1, 1911, between A. T. Perkins, syndicate manager, and C. W. Hillard, trustee, the covenants and agreements made by the latter being guaranteed by the Frisco. The Frisco issued, under date of May 23, 1913, two notes aggregating \$2,443,088.83 for all of the capital stock and properties of these two companies, paying in addition \$50,000 in cash for the purpose of liquidating certain indebtedness of the companies named.

NOTE L. The entire capital stock of the St. Louis, Brownsville & Mexico Railway, except qualifying directors' shares, and \$10,256,000 of the bonds of that company, were purchased by the Frisco from the St. Louis Union Trust Co. in May, 1910, for account of the New Orleans, Texas & Mexico Railroad Co., payment being made by the Frisco partly in cash, partly by a note, and the balance by deposit of bonds of the New Orleans, Texas & Mexico division. Stock of the Beaumont, Sour Lake & Western Railway, par value \$19,100, and stock of the Orange & Northwestern Railroad, par value \$31,500, were acquired by the Colorado Southern, New Orleans & Pacific Railway in May, 1906, in settlement with the Gulf Construction Co. The remaining stocks and bonds of these three companies were acquired by the New Orleans, Texas & Mexico Railroad through funds advanced by the Frisco from time to time, for which notes were taken, which notes were in part liquidated by bonds. The Frisco was reimbursed by an issue of bonds known as the Frisco-New Orleans, Texas & Mexico division first mortgage bonds, which are a direct lien upon the property of the New Orleans, Texas & Mexico Railroad, and an indirect lien upon the other properties through pledge with the trustee of the mortgage of the securities of the three companies owned by the New Orleans, Texas & Mexico Railroad.

NOTE M.—Twenty-five per cent of the stock of the Houston Belt & Terminal Railway Co. is owned by the St. Louis, Brownsville & Mexico Railway and an equal amount by the Beaumont, Sour Lake & Western Railroad, this stock having been acquired from the St. Louis Union Trust Co. in August, 1908, and May, 1910.

NOTE N.—The St. Louis, Brownsville & Mexico Railway acquired in May, 1910, 49.70 per cent of the stock of the Brownsville & Matamoras Bridge Co. This was secured from the St. Louis Union Trust Co. in exchange for an equal amount of the bonds of the St. Louis, Brownsville & Mexico Railway. The National Railways of Mexico also own stock of this bridge company.

(f) *Discounts.*—The Interstate Commerce Commission finds that the discounts on bonds and notes, other than short-term notes, issued by the Frisco & Kansas City, Fort Scott & Memphis Railway, which is controlled by the Frisco, including premiums paid for the retirement of underlying issues and commissions paid banks or bankers, aggregate \$32,152,602.07. The discount applicable to the securities of the Frisco aggregate \$28,828,362.72, and to the securities of the Kansas City \$3,324,239.35. The net liability of the Frisco on May 27, 1913, amounted to \$239,244,437.68. The discount and commissions represent 12.05 per cent of the net funded debt. This discount, aggregating some \$33,000,000, was incurred during the period of 12 years. The Frisco securities and those of the Kansas City have sold at prices ranging from 62½ to 98. On the subject of discount the commission says:

"Within the widest possible range of reasonable charges to the public, no transportation company constructed and living upon borrowed capital can long survive a situation in which it sells securities at 62½ cents on the dollar and pays interest on the par value thereof. At 4 per cent the \$30,565,749.82 of net discounts and commissions carried by the Frisco represent an annual expenditure of \$1,226,630 for interest upon money which it never received. The accounts show that the securities were sold at prices higher than those above quoted, but commissions, varying from 1 to 2½ per cent, paid to the bankers aggregated more than \$3,000,000."

### 5. REVENUES, ETC.

In its report the commission shows the gross revenues, the net revenue rail operations, total mileage operated, the gross and net revenue per mile of line operated, the funded debt outstanding, the net interest deductions on funded debt, the total mileage owned, the average amount of funded debt per mile of road, the average annual interest on the funded debt per mile of road, the ratio of net earnings to total funded debt, and ratio of interest on the funded debt to net earnings, as follows:

*Averages and ratios based on revenues, interest on funded debt, and funded debt.*

Fiscal year ended June 30.	Gross operating revenue.	Net revenue rail operation.	Total mileage operated on June 30.	Revenue per mile of line operated.		Total funded debt (includ- ing equip- ment trusts outstanding on June 30.
				Gross.	Net.	
1897.....	5,993,336.17	\$2,509,707.80	1,162	\$5,157.78	\$2,159.82	\$37,288,850.00
1898.....	6,886,467.77	2,856,358.98	1,282	5,371.66	2,228.05	39,118,100.00
1899.....	7,226,662.13	2,885,471.58	1,385	5,217.81	2,083.37	41,587,648.75
1900.....	7,988,246.06	3,290,719.29	1,402	5,694.18	2,347.16	44,875,491.25
1901.....	10,173,697.25	4,328,689.84	1,708	5,956.50	2,564.36	46,198,125.00
1902.....	18,988,215.44	7,188,936.09	2,895	6,558.97	2,483.22	78,702,925.00
1903.....	20,692,772.47	7,365,972.43	3,324	6,225.26	2,216.00	116,494,145.25
1904.....	28,051,617.67	8,014,010.25	3,735	6,171.78	2,145.65	132,007,162.02
1905.....	28,486,477.07	10,299,857.65	4,787	6,013.61	2,174.34	155,766,524.44
1906.....	30,468,627.12	11,202,054.88	4,721	6,452.79	2,372.81	162,472,775.97
1907.....	36,548,949.85	13,441,028.11	4,727	7,731.95	2,843.46	174,054,737.79
1908.....	33,844,373.88	10,496,686.99	4,727	7,159.79	2,220.57	191,267,576.00
1909.....	35,619,712.70	12,481,068.90	4,727	7,575.37	2,640.38	194,673,809.70
1910.....	39,089,647.07	12,284,177.93	4,726	8,271.19	2,588.70	225,274,650.90
1911.....	40,787,480.42	13,589,584.65	4,732	8,619.50	2,871.85	240,058,971.27
1912.....	39,569,475.51	12,980,420.53	4,742	8,344.47	2,739.23	218,139,328.70
1913, to May 27.....	39,390,343.65	12,968,815.61	4,742	8,306.69	2,733.83	244,269,833.72

Fiscal year ended June 30.	Net interest deductions on funded debt.	Total mileage owned on June 30.	Average amount funded debt per mile of line owned.	Average annual interest on funded debt per mile of line owned.	Ratio of net earn- ings to total funded debt.	Ratio of interest on funded debt to net earnings.
					<i>Per cent.</i>	<i>Per cent.</i>
1897.....	\$1,994,488.00	1,145	\$32,566.68	\$1,741.91	6.73	79.47
1898.....	2,028,743.78	1,265	30,923.40	1,603.75	7.30	71.03
1899.....	2,109,249.13	1,368	30,407.63	1,541.85	6.94	73.10
1900.....	2,145,924.50	1,385	32,401.03	1,549.40	7.33	65.21
1901.....	2,264,766.82	1,687	27,384.78	1,324.70	9.37	51.63
1902.....	2,835,917.35	1,880	39,203.68	1,508.47	9.75	39.45
1903.....	4,122,912.53	2,459	47,374.60	1,676.66	6.32	55.97
1904.....	4,899,680.28	2,851	46,302.06	1,715.43	6.07	61.03
1905.....	6,261,340.90	3,532	44,100.66	1,772.75	6.61	60.79
1906.....	6,675,306.88	3,516	46,209.54	1,898.55	6.89	59.59
1907.....	6,975,470.40	3,523	49,405.26	1,979.98	7.72	51.90
1908.....	7,427,814.39	3,523	54,291.11	2,108.38	5.49	70.76
1909.....	7,880,784.17	3,523	55,257.96	2,206.95	6.41	63.14
1910.....	8,522,404.47	3,523	66,782.47	2,419.08	5.20	69.66
1911.....	9,774,335.33	3,523	68,140.50	2,774.44	5.66	71.93
1912.....	10,225,024.22	3,523	67,595.61	2,902.36	5.45	78.72
1913, to May 27.....	9,775,668.39	3,523	69,335.75	2,771.81	5.31	75.41

<sup>1</sup> Excludes mileage of Paris & Great Northern R. R.

Referring to the difficulties of the Frisco, the Interstate Commerce Commission says:

"The difficulties of the Frisco were of a financial and not of an operating character, as, despite the increase in the net operating income from \$2,332,158.52 for the year ended June 30, 1897, to \$11,677,437.33 for 11 months of the fiscal year 1913, the surplus of income available for dividends in 1897 was \$331,065.94, while on May 27, 1913, there was a deficit of \$1,069,915.60. Had it not been for book charges covering the loss on the operation of south Texas lines for 11 months of the fiscal year 1913, amounting to \$1,219,293.21, and amortized discount of \$943,222.38, there would have been a surplus of \$1,092,599.99, or an increase in surplus for the 1913 period over the year 1897 of \$761,534.05. The operating income for the 11 months of 1913 was \$9,345,278.81 greater than that for the full year of 1897.

"The absorption of the increased net operating income is accounted for by charges of \$3,140,610.94, covering the cost of the lease of the Kansas City, Fort Scott & Memphis Railway, the Kansas City, Memphis & Birmingham Railroad, and the Kansas City, Memphis Railway & Bridge Co., and by the increase in interest on funded debt from \$1,994,488 for the year ended June 30, 1897, to \$10,684,788.55 as of June 30, 1913, an increase of \$8,690,300.55.



"The gross earnings per mile of road operated increased from \$5,157 for the year ended June 30, 1897, to \$8,306 for the 11 months ended May 27, 1913, and the net earnings per mile increased during the same period from \$2,159 to \$2,733, an increase of \$574, while the funded debt interest per operated mile increased from \$1,716 for the year ended June 30, 1897, to \$2,253 for the year ended June 30, 1913, an increase of \$537.

"The ratio of operating expenses to gross revenues increased from 58.30 per cent for 1897 to 67.17 per cent for 1912, which ratio for the last period does not indicate a relatively excessive cost of operation.

"Freight earnings per mile of road increased from \$3,857.77 for the year ended June 30, 1897, to \$5,465.31 for the year ended June 30, 1912, while during the same period the revenue per ton-mile decreased from \$0.01111 to \$0.00992. An increase in traffic and operating revenues had been secured, but the benefits thereof had been absorbed by increased interest charges."

#### 4. B. F. YOAKUM'S DEFENSE.

Under date of December 16, 1913 (date of Interstate Commerce Commission's decision, Jan. 20, 1914), B. F. Yoakum, chairman of the St. Louis & San Francisco Railroad Co., issued a statement to the Frisco stockholders in which he attempts to justify the profits made by him in connection with various syndicate transactions, and also defends the Frisco's extension policy. He alleges that all of the railroad properties acquired by the Frisco had proven advantageous and profitable with the possible exception of the Chicago & Eastern Illinois and New Orleans, Texas & Mexico (the Gulf Coast Lines). "Judged by results at the present time, these two properties," says Yoakum, "do not appear profitable, but considered from a broad constructive standpoint the larger plans in view and the probable future earnings of these properties, I believe their purchase will be fully justified."

Referring to the losses sustained by the Frisco through the purchase of the Chicago & Eastern Illinois, B. F. Yoakum says:

"The Frisco acquired a majority of the stock of the Chicago & Eastern Illinois Railroad Co. in October, 1902, and at the time of this acquisition I did not own any Chicago & Illinois stock, nor did I make any profit, directly or indirectly.

"Chicago is the largest railroad and commercial center of the West. At the time railroads were being consolidated into large systems and those without access to large railroad and commercial centers could not develop their traffic satisfactorily. It was the judgment of the board, as well as myself, that this investment would be advantageous to the Frisco, and while it has not been directly profitable it has been indirectly of immense advantage by reason of the gross earnings from interchange business which it probably would not have secured except through ownership of the Chicago & Eastern Illinois.

"During the 11 years since the purchase of this property the Frisco has paid out on stock certificates approximately \$1,700,000 more than it has received in dividends, or an average of about \$150,000 a year. The interchange of traffic, however, has resulted in gross earnings to the Frisco of approximately \$3,750,000 annually.

"At the time of the purchase of the Chicago & Eastern Illinois it practically controlled the coal traffic of Illinois and Indiana to Chicago markets. Since that time the Southern Illinois, Big Four, and other railroads have extended their lines into that territory and have become large carriers of coal tonnage into Chicago and other markets."

In his statement B. F. Yoakum says that after the Frisco had secured an entrance into Chicago and had acquired lines which gave it an entrance into Memphis, Tenn., the next logical step for it to take was to acquire or construct lines from Mexico to New Orleans to cover the territory between New Orleans and Brownsville, Tex. The company caused the organization of the New Orleans, Texas & Mexico to operate between New Orleans, Houston, and Galveston, Tex., and the St. Louis, Brownsville & Mexico to operate between Houston and Brownsville, Tex. Arrangements were made for the interchange of traffic at Brownsville with the National lines of Mexico. Following the disastrous floods of 1911 and 1912 and the revolution in Mexico, the traffic of the Brownsville line suffered a severe setback. The decrease in the earnings of this line in the judgment of B. F. Yoakum can not be attributed to the management of the properties by him and his associates.

Included in his statement of December 16, 1913, is the following statement which shows the profits realized by B. F. Yoakum:

*Profits by B. F. Yoakum.*

Date.	Road.	Number of syndicate subscribers.	Amount of syndicate subscriptions.	My subscription.	My profits.	My profit less 6 per cent interest on investment.
1902-1904	St. L. & Gulf and St. L., M. & S. E.....	50	\$2,700,000	\$75,000.00	\$38,187.45	\$29,187.45
1903-1909	St. L., Brown. & Mex.....	99	3,981,000	300,833.33	227,580.42	111,759.49
1902-1903	St. L., S. F. & N. O.....	150	5,300,000	50,000.00	7,900.00	3,900.00
1901-1903	Okla. City & Western.....	51	2,148,000	22,500.00	2,933.34	1,020.84
1902-1904	Ark. Valley & Western.....	61	3,190,000	62,500.00	11,515.78	5,283.94
1909.....	New Iberia & Northern.....	38	1,250,000	300,000.00	None.	None.
	Total.....		18,569,000	810,833.33	288,116.99	151,151.72

<sup>1</sup> Estimated.

In addition to the profits shown in the foregoing table B. F. Yoakum says that he received \$28,000 in 4½ per cent bonds from the St. Louis & Gulf Syndicate and \$3,500 in sale of the Gulf Construction Co. to the Colorado Southern, New Orleans & Pacific Railroad Co.

Following the hearings held by the Interstate Commerce Commission, the Frisco was severely criticized for the policy pursued by it in selling securities at what was considered exorbitant discounts, the total discounts amounting to about \$32,000,000.

In reply to this criticism, B. F. Yoakum calls attention to the fact that a new system doing the work of extension and development like the Frisco is not always as favorably situated in money markets as are the larger and more powerful systems with well-established traffic and serving a highly developed and populous section.

Under the reorganization plan of 1896 the first and second preferred stocks were limited to 4 per cent, and as under the laws of Missouri railroad stock can not be sold for less than par, that plan practically prevented further sale of preferred stock. "This," says B. F. Yoakum, "perhaps, could not be foreseen at the time of the reorganization, and I only refer to it as one of the difficulties encountered in financing the Frisco system." It had no other means of financing itself but through bond issues. While the discount on the bond issues aggregated \$32,000,000 no one received any part of these discounts and commissions except the bankers and investors themselves. This discount, however, is not a direct outlay of money but is an obligation whose maturity is spread over 15 to 50 years. "The effect of it," he says, "is to raise the apparent average rate of interest, say, 5 per cent on par to an actual rate from 7 to 7½ per cent."

B. F. Yoakum further alleges that he is one of the largest stockholders of the St. Louis & San Francisco; that he has never lost faith in the property and that he has confidence in its future outcome notwithstanding its temporary troubles.

Referring to the criticism directed at him, he says:

"\* \* \* Let me say that criticism of me is more or less natural, following the receivership, and considering my close connection with the company. That it has been severe to the point of injustice I have tried to make clear to you in this communication. What profits I have received from these undertakings represent at most only a liberal interest on investments as shown above. My principal motive was not that of selfish personal gain, but the building of the railroad system and the growth of the country in which it lies. The construction of new railroads through sparsely settled western sections does not appeal to bankers as investments and therefore syndicate financing in accord with existing custom was employed. No one will deny the great changes that have taken place in public opinion during the past 10 years. I recognize the public disapproval of dealings between a corporation and its officials. While I believe it ought not to apply to pioneering enterprises which have in the past depended for the success upon syndicate or individual financing, on the whole, I am convinced that the policy is right. It is equally true that within the

same period many other familiar corporate acts, such as contributions to political campaigns, relating, trade and traffic agreements, have come under the ban of public opinion. It is my earnest wish to cooperate in the work of reconstruction with all the resources of strength and money within my power. I shall devote myself to this work, and, in conjunction with many able men who are also giving their time and energies to its success, will do all I can to rehabilitate the Frisco System and to so reorganize it that the stockholders may be fully protected and their losses regained. Nothing less than this will satisfy me or do justice to this great property."

B. F. Yoakum's statement may well be interpreted as a defense of his policy in the management of the Frisco. One must not, however, forget that during the period of these transactions B. F. Yoakum was a director of the St. Louis & San Francisco Railroad Co., and therefore occupied a fiduciary position.

#### 5. THE PLAN OF REORGANIZATION.

The plan of reorganization, dated November 1, 1915, and declared operative on April 21, 1916, is expected to accomplish the following results:

1. Reduction of fixed charges to within a safe limit.
2. Making adequate capital provision for present and future requirements.
3. Paying or adjusting all debts, guaranties, etc.
4. Preserving the most desirable parts of the system.
5. Safeguarding control.

As stated on a preceding page, the reorganization plan of the Frisco excludes the Chicago & Eastern Illinois, and the New Orleans, Mexico & Texas Railroad, and the New Orleans Terminal Co.

The plan leaves undisturbed the St. Louis & San Francisco Railway general mortgage 5 per cent and 6 per cent gold bonds due 1931, all of the equipment trust obligations of the Frisco maturing after July 1, 1917, and all of the bonds of the Kansas City, Fort Scott & Memphis Railway Co. system.

The cash requirements are largely based on a report made by J. W. Kendrick. It is estimated that the needs of the company require \$25,000,000. This money is to be expended for following purposes:

Receivers' certificates-----	\$3, 000, 000
Equipment trust obligations maturing after Jan. 2, 1916, and prior to July 2, 1917-----	3, 232, 636
\$54,000 Pemiscot Railroad Co. first mortgage 6 per cent gold bonds----	54, 000
\$65,000 Kennett & Osceola Railroad Co. first mortgage 6 per cent gold bonds-----	65, 000
\$4,500 Southern Missouri & Arkansas Railroad Co. first mortgage bonds-----	4, 500
July 1, 1914, Jan. 1, 1915, and July 1, 1915, interest on the refunding mortgage bonds-----	4, 113, 420
May 1, 1914, and Nov. 1, 1914, interest on the general lien bonds----	3, 469, 200
Interest at 6 per cent per annum on foregoing interest installments from date of maturity to date of actual payment, calculated as of Jan. 1, 1916-----	541, 688
Cash payments in connection with exchange of underlying bonds----	310, 650
Payments in connection with adjustment of secured debt judgments and preferred claims (estimated)-----	2, 000, 000
Jan. 1, 1916, interest on \$68,763,750 prior lien mortgage 4 per cent bonds, series A, deliverable in partial exchange for refunding mortgage bonds and for general lien bonds pursuant to the plan----	1, 375, 275
Improvements and betterments, additions, acquisitions, including equipment; court costs, and other legal expenses, including compensation and disbursements of trustees of existing mortgages; reorganization managers' compensation, syndicate commissions, engraving of new securities, accountant, and other expert fees and expenses; charges for listing securities on various stock exchanges; compensation and disbursements of committees and others representing existing securities, including depositaries; organization, franchise, and other taxes, including stamps and other organization and miscellaneous expenses; contingencies, etc., balance to new company as additional working capital-----	6, 833, 631
Total-----	25, 000, 000



For the purpose of meeting the estimated cash requirements of the plan, Speyer & Co., J. & W. Sleigman & Co., Guaranty Trust Co. of New York, and Lee, Higginson & Co., have undertaken to form a purchase syndicate, of which they will be managers. The syndicate is to purchase (a) \$25,000,000 prior lien mortgage series B 5 per cent bonds; (b) \$43,180,000 common stock for the sum of \$25,000,000.

Depositing stockholders shall be permitted to purchase stocks and bonds pursuant to the plan set forth in the following table:

Class of stock.	Amount issued.	If paying cash.	Prior lien series B 5 per cent.	Common stock v.i.c. <sup>1</sup>
First preferred.....	\$5,000,000	<sup>2</sup> \$2,500,000	<sup>3</sup> \$2,500,000	<sup>4</sup> \$5,000,000
Second preferred.....	16,000,000	<sup>2</sup> 8,000,000	<sup>3</sup> 8,000,000	<sup>5</sup> 14,400,000
Common.....	29,000,000	<sup>2</sup> 14,000,000	<sup>3</sup> 14,500,000	<sup>6</sup> 23,780,000
Total.....	50,000,000	25,000,000	25,000,000	43,180,000

<sup>1</sup> Subject to reduction of stock issue as above stated.

<sup>2</sup> 50 per cent.

<sup>3</sup> 50 per cent; subject to withdrawal by syndicate at 85 per cent flat for bonds as withdrawn. These bonds will carry interest at the rate of 5 per cent per annum from Jan. 1, 1916.

<sup>4</sup> 100 per cent.

<sup>5</sup> 90 per cent.

<sup>6</sup> 82 per cent.

The reorganization plan of the Frisco provides for the issue of the following new securities:

- (a) Prior-lien mortgage gold bonds.
- (b) Cumulative-adjustment mortgage gold bonds.
- (c) Income-mortgage gold bonds.
- (d) Seven per cent preferred stock.
- (e) Common stock.

The bonds to be issued under the prior-lien mortgage will be limited to \$250,000,000. These bonds are to be issued or are to be reserved for issue for the following purposes:

In partial exchange for existing securities embraced in the plan (series A, 4 per cent, maturing July 1, 1950, redeemable at par and accrued interest).....	\$93,398,500
Sold to purchase syndicate and by it to be offered for subscription to stockholders of the railroad company on the terms and conditions stated in the plan (series B, 5 per cent, maturing July 1, 1950, redeemable at 105 and accrued interest).....	25,000,000
For the corporate purposes of the new company (series B, 5 per cent, maturing July 1, 1950, redeemable at 105 and accrued interest).....	6,811,500
Reserved to retire \$5,306,000 equipment trust certificates maturing after July 1, 1917.....	5,306,000
Reserved to retire \$9,484,000 St. Louis & San Francisco Railway Co. general mortgage 5 per cent and 6 per cent bonds due 1931, undisturbed.....	9,484,000
Reserved for issue for new equipment, improvements, and betterments, and to meet the cost of construction of new mileage or of the acquisition of other lines of railroad or stocks or bonds representative thereof.....	110,000,000
Total.....	250,000,000

The bonds which may be issued under the cumulative-adjustment mortgage will be limited to \$75,000,000. These bonds may be issued or will be reserved for issue for the following purposes:

In partial exchange for existing securities embraced in the plan (series A, 6 per cent, carrying interest from July 1, 1915, maturing July 1, 1955, and redeemable at par and accrued interest).....	\$40,547,818
Reserved for issue for equipment, improvements, and betterments, and new mileage constructed or acquired.....	34,452,182
Total.....	75,000,000

The bonds which may be issued under the income mortgage will be limited to \$75,000,000. The income-mortgage bonds are to be issued or are to be reserved for issue for the following purposes:

To be issued in partial exchange for existing securities embraced in the plan and for adjustment of outstanding indebtedness: bonds not used or required to be reserved for that purpose to be available for corporate purposes of the new company (series A, 5 per cent convertible, ranking for interest from July 1, 1915, maturing July 1, 1960, redeemable at par, and interest for proportionate part of current interest period) .....	\$38,661,200
Reserved for issue for improvements, betterments, and additions and equipment .....	36,338,800
Total .....	75,000,000

The preferred stock, carrying a preferential dividend of 7 per cent, such dividend not being cumulative, is limited to an authorized issue of \$200,000,000. The preferred stock will be issued and reserved as follows:

For adjustment of outstanding indebtedness (to be issued at 6 per cent stock, and to be redeemable, if allowed by law, at par and proportionate dividend for current dividend period), any stock not so used to be available for the corporate purposes of the new company .....	\$7,000,000
Reserved for conversion of convertible income mortgage bonds: For conversion of \$38,661,200 income mortgage bonds, series A, 5 per cent, maturing July 1, 1960, presently to be issued under the plan (to be issued at 6 per cent stock, and to be redeemable if allowed by law, at par and proportionate dividend for current dividend period) .....	38,661,200
For conversion of \$36,338,800 income mortgage bonds reserved under the plan for subsequent issue if issued with conversion privileges, otherwise reserved for future issue for corporate purposes .....	36,338,800
Reserved for future issue for corporate purposes not exceeding .....	118,000,000
Total .....	200,000,000

The authorized issue of common stock is limited to \$250,000,000. The common stock will be applied as follows:

Sold to purchase syndicate and by it to be offered for subscription to stockholders of the railroad company on the terms and conditions stated in the plan .....	\$47,700,000
For adjustment of outstanding indebtedness, any stock not so used to be available for the corporate purposes of the new company .....	5,300,000
Reserved for future issue for corporate purposes not exceeding .....	197,000,000
Total .....	250,000,000

The capitalization of the Frisco as reported on June 30, 1915, together with the fixed charges, are reported in the reorganization plan, as follows:

	Capitaliza- tion.	Fixed charges.
Receivers' certificates .....	\$3,000,000	\$180,000
Equipment trusts due prior to July 2, 1917 (\$2,673,884 payable on or before July 1, 1916, for which cash provided so far as not paid by receivers) .....	4,626,636	231,300
Funded debt to be refunded .....	163,083,500	7,308,945
20-year 5 per cent secured gold notes .....	2,250,000	112,500
20-year 6 per cent secured gold notes .....	2,600,000	156,000
New Orleans, Texas & Mexico Division first mortgage 5s and 4s gold bonds (foreclosed under reorganization as independent property) .....	28,128,000	1,381,400
New Orleans Terminal first mortgage 4s gold bonds (being half of issue) .....	7,000,000	280,000
Chicago & Eastern Illinois stock trust certificate .....	26,598,250	1,063,930
Total fixed obligations .....	237,286,386	10,714,075
Stock of St. Louis & San Francisco R. R. Co. .....	50,000,000	
Securities of St. Louis & San Francisco R. R. Co. undisturbed:		
(a) General mortgage 5s and 6s due 1913 .....	9,484,000	511,010
(b) Equipment trust certificates, due after July 1, 1917 .....	5,306,000	265,000
(c) Sundry rentals, sinking fund, etc. .....		579,119
Fixed obligations in connection with Kansas City, Fort Scott & Memphis Ry. Co. leasehold and auxiliary companies, bonds, rentals, sinking fund, etc. (year 1915) .....		2,817,121
Grand total .....	302,076,386	14,886,325

The capitalization of new company is reported in the reorganization plan as follows:

	Capitaliza- tion.	Fixed charges.
<b>A. Fixed charges:</b>		
New prior lien mortgage bonds—		
Series A, 4 per cent.....	\$93,398,500	
Series B, 5 per cent.....	25,000,000	\$118,398,500
St. Louis & San Francisco Ry. general mortgage 5s and 6s, due 1931....	9,484,000	\$1,985,940
Equipment trust certificates due after July 1, 1917.....	5,306,000	511,010
Sundry rentals and sinking funds (1915).....		205,000
Fixed charges in connection with Kansas City, Fort Scott & Memphis Ry. Co. leasehold and auxiliary companies bonds, rentals, sinking fund, and miscellaneous.....		579,119
Total fixed charges of new company.....		2,817,121
<b>B. Contingent charges:</b>		
Cumulative 6 per cent adjustment mortgage bonds.....	40,547,818	9,158,190
Noncumulative 6 per cent income mortgage bonds.....	35,192,000	2,432,869
Total contingent charges.....		2,111,520
Total fixed and contingent charges of new company.....		4,543,389
<b>C. Stock:</b>		
Seven per cent preferred stock.....	7,000,000	
Common stock.....	48,480,000	
Total capitalization, exclusive of bonds of Kansas City, Fort Scott & Memphis Ry. Co.....	264,408,318	13,702,579

The bonds of Kansas City, Fort Scott & Memphis Railway Co. left undisturbed aggregate \$54,813,670, making a total capitalization for the system as per plan of \$319,221,988.

In its decision of December 22, 1915 (1916 F. Public Utilities Report, Annotated, p. 49), the Missouri Public Service Commission approved tentatively the reorganization plan on condition that the five-year voting trust, the stock and bond bonuses, and the conversion of the 6 per cent income bonds into 7 per cent preferred stock during the life of the proposed voting trust, be eliminated. The Missouri commission held that under the law of that State a voting trust was void. It also estimated that the conversion of the income bonds into preferred stock would result in an increased annual charge against earnings of \$385,000, by reason of the dividend on the preferred stock being 1 per cent higher than the interest on the income bonds. The effect of this naturally would be to postpone the right of the common stockholders to participate in dividends to the extent of said increase. The commission held that the proposed conversion of the income bonds into preferred stock is illegal.

The proposed plan of reorganization provided for a bond bonus of \$5,781,768 and stock bonuses of \$2,050,000. It was proposed to refund \$69,384,000 5 per cent general lien bonds by the issue of—

4 per cent general-lien bonds of new company.....	\$17,346,000
6 per cent cumulative adjustment bonds.....	19,658,568
5 per cent income bonds.....	38,161,200
Total.....	75,165,768
Bonuses.....	5,781,768

The commission authorized the issue of—

4 per cent general lien bonds of new company.....	\$17,346,000
6 per cent cumulative adjustment bonds.....	17,346,000
5 per cent income bonds.....	34,692,000
Total.....	69,384,000

The proposed plan provides that the \$29,000,000 of common stock (all issued except \$14,237.70) of the old company shall be exchanged for common stock of the new company on the basis of \$85 of new stock for \$100 of the old stock; that the \$5,000,000 of the first preferred stock of the old company shall be exchanged for common stock of the new company on the basis of \$125 of new



stock for \$100 of said preferred stock, resulting in a bonus of \$1,250,000; and that the \$16,000,000 of the second preferred stock of the old company be exchanged for common stock of the new company on the basis of \$105 of new stock for \$100 of said second preferred stock, resulting in a bonus of \$800,000, or a total bonus of \$2,050,000 to the holders of first and second preferred stock in the old company.

The commission held that the fair value of the property does not permit the issue of either the bond or stock bonuses. It authorized the new company to issue \$5,000,000 of common stock in exchange for \$5,000,000 of first preferred of the old company; \$16,000,000 of common to be exchanged for \$16,000,000 of second preferred, and \$29,000,000 common for a like amount of common of the old company.

In its issue of September 2, 1916 (vol. 103, p. 845) the Commercial and Financial Chronicle reports that on August 26, 1916, the Missouri Public Service Commission authorized the St. Louis-San Francisco Railway to issue—

(1) Prior lien bonds.....	\$118,398,500
(2) Cumulative adjustment bonds.....	40,547,818
(3) Noncumulative income bonds.....	35,192,000
(4) Six per cent preferred stock.....	49,452,026
(5) Common stock.....	48,481,000
Total.....	252,071,344
Total called for in original plan.....	249,618,318
Increase.....	2,453,026

The increase consists of \$2,452,026 of preferred and \$1,000 of common stock.

The reorganization plan is alleged to accomplish the following reductions and results:

(a) Reduction in total capitalization (excluding K. C., Ft. S. & M. system bonds undisturbed), \$29,678,868, or 9.82 per cent.

(b) Reduction in total capitalization (including K. C., Ft. S. & M. system bonds undisturbed), \$29,678,868, or 8.31 per cent.

(c) Reduction in fixed charge obligations (excluding K. C., Ft. S. & M. system bonds undisturbed), \$118,887,886, or 47.16 per cent.

(d) Reduction in fixed annual charges (excluding K. C., Ft. S. & M. system bonds undisturbed), \$5,728,135, or 47.46 per cent.

(e) Reduction in total annual charges, fixed and contingent (excluding K. C., Ft. S. & M. system bonds undisturbed), \$1,362,205.92, or 11.28 per cent.

(f) Reduction in fixed annual charges (including K. C., Ft. S. & M. system bonds undisturbed), \$5,728,135, or 38.47 per cent.

(g) Reduction in total annual charges, fixed and contingent (including K. C., Ft. S. & M. system bonds undisturbed), \$1,362,205.92, or 9.15 per cent.

The present fixed charge obligations secured upon the property of the railroad company system, excluding the K. C., Ft. S. & M. system, are at the rate per mile of first main track of \$63,899.95.

These bear fixed annual charges at the rate per mile of first main track of \$3,059.47.

As a result of the reorganization the new company will have outstanding fixed charge obligations secured upon the property of the system, excluding the K. C., Ft. S. & M. system, at the rate per mile of first main track owned by the new company of \$33,762.54.

These will bear fixed annual charges at the rate per mile of first main track of \$1,607.43.

The present fixed charge obligations secured upon the property of the railroad company's system, including the K. C., Ft. S. & M. system, are at the rate per mile of first main track of \$59,535.85.

These bear fixed annual charges at the rate per mile of first main track of \$2,887.90.

As a result of the reorganization the new company will have outstanding fixed charge obligations secured upon the property of the railroad company's system, including the K. C., Ft. S. & M. system, at the rate per mile of first main track owned or operated by the new company, of \$36,471.92.

These will bear fixed annual charges at the rate per mile of railroad of \$1,776.66.

## 7. DISCHARGE OF RECEIVERS.

The St. Louis & San Francisco Railway Co. took possession of the property formerly owned and operated by the St. Louis & San Francisco Railroad Co. on November 1, 1916.

The Commercial and Financial Chronicle in its issue of November 18, 1916, quotes President W. C. Nixon as saying:

"In the reorganization of 1916 annual fixed charges have been reduced from \$14,886,324 to approximately \$9,331,630, a reduction of \$5,554,694, or 37 per cent—of which approximately \$2,725,330 is due to the fact that the lines of Chicago & Eastern Illinois R. R. Co.; New Orleans, Texas & Mexico R. R. Co.; and New Orleans Terminal Co. were not taken over by the St. Louis & San Francisco Ry. Co.

"In the three years ended June 30, 1916, during the receivership, the physical property taken over by the present company received the benefit of maintenance expenditures amounting to \$44,007,704, or \$10,312,594 more than in the three previous corresponding years. In addition, expenditures for actual additions and betterments of way and structures and reductions in outstanding equipment trust obligations during the same period have together amounted to \$14,253,823. The properties are now in excellent physical condition.

"The ratio of transportation expenses to operating revenue decreased from 37.24 per cent in 1912 to 32.03 per cent in 1916. On a gross operating revenue of \$48,403,000 in 1916 this reduction in transportation expense ratio is equivalent to an annual net saving of \$2,521,000, due to improved operating efficiency.

"The large increase in ratio of maintenance expenses to operating revenue means a great improvement in the physical condition of the property. Maintenance expenses were undoubtedly above normal during the last three years.

"The considerable decrease in other net income since the receivership is chiefly due to the relinquishment of the Chicago & Eastern Illinois, which paid some dividends to the San Francisco Co., but which proved unprofitable to the latter because requiring fixed charges in excess of income.

"The great improvement in operating results above shown has been in no wise due to increase in traffic rates. On the contrary, the average rate per ton-mile decreased 7 per cent and per passenger-mile decreased 8 per cent between 1911 and 1916. The improvement has been effected chiefly through an increase in trainload, the number of tons of revenue freight having increased from 220.93 per train-mile in 1911 to 333.95 in 1916, an increase of 51 per cent in trainload during the five-year period. The average number of passengers carried per train-mile increased from 45.73 in 1911 to 52.38 in 1916, an improvement of 14 per cent.

"*Financial status.*—The new company is free of floating debt other than current operating accounts and charges, has ample working capital, and should have no difficulty in financing any future additions and improvements necessary to take care of its business with economy and efficiency."

## RECEIVERSHIP OF TENNESSEE CENTRAL RAILROAD CO.

On December 31, 1912, Judge Sanford, in the United States District Court at Knoxville, appointed former Supreme Court Justice W. K. McAllister and Vice President H. B. Chamberlin receivers for Tennessee Central Railroad Co. The receivers were appointed on petition filed by Mercantile Trust Co., of St. Louis, trustee. The bill alleged that there was due \$1,641,380 for interest on bonds accrued since January 1, 1909, that the company owed \$400,000 in the form of floating indebtedness, and that the earnings were inadequate to pay the same.

Tennessee Central Railroad Co. was incorporated April 20, 1901, in Tennessee under the name of Nashville & Clarksville Railroad. It represents a consolidation of the Tennessee Central Railway, Nashville & Knoxville Railroad, Cumberland Plateau Railway, and Kingston Bridge & Terminal Co. The present name was adopted May 1, 1902.

Receivers were appointed for the company in 1904 because of its inability to pay construction costs. In regard to the appointment of receivers in 1904 Judge John A. Pitts says:

"The company has not been able to meet its obligations promptly because of the excess of the cost of constructing the road over the estimated cost. On

every mile of road constructed by the company it is authorized to issue \$25,000 of bonds. However, the actual cost of constructing the line between Nashville and Hopkinsville has been nearer \$45,000 per mile than \$25,000 per mile and the belt line around the city from Slaten Street to the Cumberland River has cost \$60,000 per mile."

All debts having been paid, the receiver was dismissed on January 12, 1904. The payment of the debts was made possible by a reorganization plan which called for the execution of two mortgages:

1. A prior lien mortgage limited to \$12,500 per mile, amounting on the 308.3 miles to \$3,853,758.

2. A general mortgage to retire existing first mortgage bonds of 1902, amounting to nearly \$8,000,000.

The refunding of the first mortgage bonds of 1902 through the issue of general mortgage bonds of 1904 left available the prior lien bonds to finance extensions and improvements.

#### MILEAGE.

Tennessee Central on June 30, 1916, reported lines operated as follows:

	Miles.
Harriman to Nashville, Tenn.....	165.81
Nashville to Hopkinsville, Ky.....	87.46
Branches .....	41.66
<b>Total .....</b>	<b>294.93</b>

In addition, the company owns 74.72 miles of sidings. The line is of standard gauge. Its equipment consists of 37 locomotives, 29 passenger cars, 590 freight cars, of which it owns 540, and 72 service cars.

#### OPTION OF ILLINOIS CENTRAL AND SOUTHERN RAILWAY.

On October 20, 1905, President Stuyvesant Fish, of the Illinois Central, reported that his company, together with the Southern Railway Co., had obtained a three-year option on the Tennessee Central. The extent of this option is set forth in a statement of June 29, 1908, which reads in part as follows:

"In June, 1905, the Southern Railway and Illinois Central entered into a contract by which they purchased the prior lien bonds of the Tennessee Central and obtained an option of three years upon the general-mortgage bonds of the Tennessee Central, the bonds of the Nashville Terminal Co., and practically all the capital stock of said companies, except that held by counties and municipalities. Pending said option they have paid interest on these securities in the nature of rent and have operated the property under an agreement to keep it free from debt. The option expires July 1.

"When they entered into these contracts the companies confidentially expected that conditions would justify the exercise of the option, and acting upon that belief they have in every way used their best efforts to develop the business of these properties, and to that end have made valuable improvements. The experience of the three years drawing to a close has not justified the expenditures. The operations have been unremunerative."

On July 1, 1908, the Tennessee Central resumed possession of its property. The results from operation, as shown in a following table, have been inadequate to pay the interest on the bonded debt.

It appears that the Illinois Central and the Southern Railway own all of the \$4,014,000 of the outstanding prior lien bonds, the Illinois Central owning one-third and the Southern two-thirds. In view of this fact it is presumed that ultimately these roads will acquire the property.

In the reorganization of the Tennessee Central, a committee of citizens of Nashville have been endeavoring to obtain recognition in the disposition of the property for the reason that the city owns \$1,000,000 of stock of the railway company. The stock of the railway company was issued in exchange for \$1,000,000 appropriated by the city of Nashville to aid in the construction of the railway company's lines.



## REVENUES AND EXPENSES.

The following table shows the revenues and expenses per mile of line operated by the Tennessee Central from 1909 to 1916, inclusive:

*Revenues and expenses per mile operated.*

[Data from Moody's Analyses of Railroad Investments.]

Years ended June 30—	Average miles operated.	Gross revenues.	Maintenance.			All other operating expenses.	Net operating revenues.
			Way.	Equip-ment.	Total.		
1907.....							
1908.....							
1909.....	311	\$4,232	\$622	\$507	\$1,129	\$1,986	\$1,117
1910.....	294	4,849	766	507	1,273	1,988	1,588
1911.....	294	5,162	736	531	1,267	2,175	1,720
1912.....	294	5,250	964	695	1,659	2,471	1,120
1913.....	294	5,729	1,156	590	1,746	2,468	1,515
1914.....	294	5,807	1,146	772	1,918	2,576	1,313
1915.....	294	5,038	1,169	646	1,815	2,469	754
1916.....	295	5,488	1,044	779	1,823	2,508	1,157
8-year average.....	296	5,194	950	629	1,579	2,330	1,285

Years ended June 30—	Other revenues.	Total net income.	Taxes accrued.	Fixed charges.	Taxes and fixed charges.	Surplus over charges.	Dividends paid.
1907.....							
1908.....							
1909.....	\$6	\$1,123	\$162	\$2,206	\$2,368	<sup>1</sup> \$1,215	
1910.....	10	1,598	163	2,338	2,501	<sup>1</sup> 903	
1911.....	14	1,734	172	2,418	2,590	856	
1912.....	8	1,128	174	2,422	2,596	<sup>1</sup> 1,468	
1913.....	14	1,529	173	2,495	2,668	<sup>1</sup> 1,139	
1914.....	13	1,326	183	2,616	2,799	<sup>1</sup> 1,473	
1915.....	12	766	191	2,731	2,922	<sup>1</sup> 2,156	
1916.....	19	1,176	190	2,724	2,914	<sup>1</sup> 1,738	
8-year average.....	12	1,298	176	2,494	2,670	<sup>1</sup> 1,372	

<sup>1</sup> Deficit.

NOTE.—Above table is based on average mileage directly operated.

The preceding table shows that the average operating revenues per mile over a period of eight years have amounted to \$5,194 and operating expenses to \$3,909, leaving net operating revenues per mile in the amount of \$1,285. The taxes and fixed charges per mile of road for the same period are reported at \$2,670, whereas the net income available to pay the same amounted to \$1,298, leaving a net deficit per mile of road in the amount of \$1,372.

For the year ending June 30, 1915, the company failed to earn its taxes and fixed charges by the amount of \$2,156 per mile, whereas in 1916 its deficit per mile amounted to \$1,738. The balance sheet of the company as of June 30, 1916, shows an accumulated deficit of \$4,985,013.

For the year ending June 30, 1916, the total gross earnings amounted to \$1,517,751, of which \$389,359, or 25.65 per cent, represents passenger revenues, \$1,042,837, or 68.70 per cent, freight, and \$85,557, or 5.65 per cent, miscellaneous revenues.

## REVENUE.

Classification of freight tonnage during last four years shows the following:

Commodity.	1913	1914	1915	1916
Products of agriculture.....	10.8	13.8	13.9	12.8
Products of animals.....	2.4	2.4	2.8	2.7
Products of mines.....	36.6	34.6	43.7	45.8
Products of forests.....	24.4	24.2	16.9	16.8
Manufactures.....	17.3	16.1	15.0	14.3
Merchandise and miscellaneous.....	8.5	8.9	7.7	7.6

Total revenue tonnage for years ended June 30:

1913	\$1, 120, 210
1914	1, 100, 392
1915	1, 010, 976
1916	1, 145, 013

(Above data from Moody's Analyses of Investments.)

#### ASSETS AND LIABILITIES.

On June 30, 1916, the company reports assets and liabilities, as follows:

##### Assets:

Road and equipment	\$19, 719, 062
Securities owned	
Other investments	25, 329
Materials and supplies	75, 726
Cash on hand	83, 961
Current accounts	82, 417
Other assets	13, 658
Unadjusted debits	20, 937
Profit and loss	4, 985, 013
<b>Total</b>	<b>25, 006, 103</b>

##### Liabilities:

Capital stock	8, 000, 000
Bonded debt	12, 232, 900
Receivers' certificates	345, 899
Current liabilities	3, 907, 948
Accrued liabilities	24, 742
Other liabilities	99, 487
Unadjusted credits	24, 659
Deferred credit items	354, 374
Appropriated surplus	16, 094
<b>Total</b>	<b>25, 006, 103</b>

The bonded debt outstanding consists of \$4,014,000 of prior lien gold 4s and \$8,206,900 general mortgage 5s. As stated above, one-third of the prior lien bonds are owned by the Illinois Central and two-thirds by the Southern Railway Co. The capitalization per mile of road is shown by the table on the following page:

#### Capitalization per mile of road.

[Data from Moody's Analyses of Railroad Investments.]

Year ended June 30—	Average miles operated.	Stock outstanding and per cent of whole.	Bonds outstanding and per cent of whole.	Rental capitalized at 5 per cent. <sup>1</sup>	Total gross capital.	Owned by company as per balance sheet.	Net capitalization.
		Per ct.	Per ct.				
1907							
1908							
1909	311	\$25, 723	40	\$39, 337	60	\$3, 859	\$68, 919
1910	294	27, 211	39	42, 108	61	4, 369	73, 688
1911	294	27, 211	39	42, 108	61	4, 462	73, 781
1912	294	27, 211	39	42, 108	61	4, 194	73, 513
1913	294	27, 211	39	42, 619	61	4, 295	74, 035
1914	294	27, 211	39	43, 231	61	4, 232	74, 674
1915	294	27, 211	39	43, 557	61	4, 232	75, 000
1916	295	27, 119	39	42, 640	61	4, 217	73, 976
8-year average.	296	27, 014	39	42, 213	61	4, 222	73, 450

<sup>1</sup> Represents rent paid for lease of road, capitalized at 5 per cent.

NOTE.—Above table is based on an average mileage, directly operated.

The foregoing table shows that the outstanding stock of Tennessee Central represents 39 per cent and the outstanding bonds 61 per cent of the total stock and bonds. The ratio between the stock and bonds, irrespective of the traffic and earnings, would indicate that the property is conservatively financed. It should be remembered, however, that the table does not show, nor have I any information which does show, the funds obtained through the issue of stocks and bonds.

The capitalization of the company contrasted with the earnings is excessive.

#### REORGANIZATION.

No reorganization plan of Tennessee Central has been submitted to the security holders. It is thought that the properties will be ultimately acquired by Illinois Central and Southern Railway to protect their investment.

#### RECEIVERSHIP OF TEXAS & PACIFIC RAILWAY CO.

On October 27, 1916, Judge R. E. Foster, in the United States district court at Shreveport, La., appointed J. L. Lancaster, the chief operating officer of the Texas & Pacific Railway Co., hereinafter referred to as "Texas & Pacific," and Pearl Wight, of New Orleans, receivers. The appointment was made upon an application by B. F. Bush, receiver of the St. Louis, Iron Mountain & Southern Railway Co.: \$410,040 of the \$842,000 judgment obtained by him in December, 1915, against the Texas & Pacific remaining unpaid. (Moody's Manual of Railroads and Corporation Securities, 1917 edition, p. 922.)

On June 30, 1916, Texas & Pacific operated 1,944.07 miles, as follows:

	Miles.
<b>Main line:</b>	
New Orleans to Shreveport, La.....	326.03
Texarkana, via Whitesboro, to Fort Worth, Tex.....	244.26
Texarkana, via Marshall, to Fort Worth, Tex.....	245.13
Fort Worth to Sierra Blanca, Tex.....	523.11
Reisor to Marshall, Tex.....	34.26
<b>Branches:</b>	
Addis to Ferriday, La.....	110.00
Cypress to Shreveport, La.....	80.80
Texarkana to Shreveport, La.....	71.25
Bunkie to Eunice, La.....	36.69
Donaldsonville to Thibodaux, La.....	28.60
Bunkie to Simmesport, La.....	25.45
Melville to Simmesport, La.....	22.45
Donaldsonville to Napoleonville, La.....	15.50
Melville to Crowley, La.....	57.03
Other small branches.....	31.36
<b>Total owned.....</b>	<b>1,851.92</b>
<b>Trackage:</b>	
Sierra Blanca to El Paso, Tex., over lines of Galveston, Harrisburg & San Antonio Railway.....	92.15
<b>Total operated.....</b>	<b>1,944.07</b>
Second track, additional to above.....	44.91
Sidings, additional to above.....	621.77
Gauge, standard.	

The location of the road is shown by the map attached to the following page. The line from Sierra Blanca to El Paso is used jointly with the Galveston, Harrisburg & San Antonio Railway, each company paying as rental one-half of the maintenance and taxes and 6 per cent on \$10,000 per mile. Southern Pacific Co. owns 99 per cent of the outstanding stock of Galveston line.

In its issue of October 27, 1916, the Wall Street Journal, referring to the Texas & Pacific, says:

"An important meeting of the Texas & Pacific directors was held Thursday afternoon, after which it was announced that attorneys would draw up a statement which would be given out for publication some time to-day.

"No official information concerning details of the action taken could be secured, but it is unofficially stated that it had to do with the working out of



a solution of the company's financial difficulties. Attorneys for both the Missouri Pacific and Gould interests attended the conference, and it is believed arrived at a compromise understanding on the application for a receiver for the company, made about a year ago by Receiver B. F. Bush, of the Missouri Pacific, and opposed and defeated in the lower courts by the Gould interests.

"This compromise is said to include withdrawal of opposition to an appointment of receivers for the company, which will now, of course, be a friendly proceeding, if the court sees fit to take over the conduct of the property.

"It is pointed out that a readjustment of the company's finances can be brought about only through the courts, inasmuch as drastic measures must be taken to reestablish the company's credit and provide for future additions and betterments. The company has not been able to finance improvements for many years owing to the provisions of its Federal charter, which limited its issuance of bonds. It is the only railroad in the United States operating under a Federal charter.

"The financial interests of the Goulds in the property is small, but the Missouri Pacific owns practically all of the second mortgage income bonds and a big block of stock. It was the Missouri Pacific ownership which permitted the Goulds in former years to dominate the road's affairs, and since Missouri Pacific passed out of the control of the Goulds the latter's management of the Texas & Pacific has existed only on sufferance of Missouri Pacific interests.

"Back in 1908, when the Texas & Pacific paid its last dividends on the second mortgage income bonds, it borrowed money on its notes with which to pay the dividends. The Goulds hold some of these notes and the Missouri Pacific the balance. These notes are now again due and payable after several extensions, and the pressure of taking care of these will hasten action on the general readjustment of the company's finances."

In its issue of October 30, 1916, the Wall Street Journal says:

"United States District Judge Foster at Shreveport, La., Friday, appointed Pearl T. Wight and J. L. Lancaster, both of New Orleans, receivers for the Texas & Pacific Railway, on petition of the St. Louis, Iron Mountain & Southern.

"Receivers for the Texas & Pacific Railway Co., having been appointed by the United States District Court for the Western District of Louisiana, Kuhn, Loeb & Co. and Blair & Co. announce that they have been requested by the holders of a large amount of the outstanding stock and income bonds of the company to prepare a plan of readjustment of its capital and debt, and that such a plan is in course of preparation, and it is expected will be published at an early date.

"The appointment of receivers of the Texas & Pacific Railway was the outcome of action taken by the directors at a meeting held Thursday, at which the financial position of the company was carefully considered.

"It has been recognized for years that the rigid financial structure of the Texas & Pacific Railway Co. has prevented it from raising money to enable it to reap the benefit of the excellent location, large gross earnings, and limited fixed interest-bearing debt.

"The continued use of its substantial net earnings for additions and betterments is injurious to the income bondholders and an unnecessary burden on the stockholders. It is clear that with enough money provided to meet public requirements and secure economical operation, an early readjustment will be for the good of all classes of security holders.

"Counsel advised that it would not be practicable to accomplish such a readjustment without judicial proceedings. The subject became imminent at this time because some of the suits on the company's overdue notes aggregating about \$3,000,000, which the company is unable to pay, were on the eve of trial. Furthermore, proceedings are pending on behalf of income bondholders to enforce their claims.

"It seemed inadvisable to enter into a period of expensive litigation simply to defer a receivership which in all probability would eventually be unavoidable, inasmuch as the interests of the stockholders and creditors could better be safeguarded by a financial readjustment. The board was advised that a plan of readjustment was under consideration, the details of which would be submitted to the stockholders at an early date.

"Under these circumstances, and particularly with a view to an early readjustment which would strengthen the financial position of the company and enable it to obtain the necessary funds to carry on and complete the betterments and im-

provements now under way and in contemplation, it seemed to the interest of the security holders of all classes that the board of directors should acquiesce in the appointment of receivers to operate the property under the supervision of court."

The Railway Age Gazette in its issue of November 3, 1916, says:

"Pearl Wight and J. L. Lancaster, first vice president, have been appointed receivers of the Texas & Pacific. The receivership was on the application of B. F. Bush, receiver of the St. Louis, Iron Mountain & Southern. The following statement was given out at the New York office of the Texas & Pacific:

"The appointment of receivers of the Texas & Pacific by the United States district court at Shreveport, La., was the outcome of action taken by the board of directors at a recent meeting at which the financial position of the company was carefully considered. It has been recognized for years that the rigid financial structure of the Texas & Pacific has prevented it from raising money to enable it to reap the benefit of its excellent location, large gross earnings, and limited fixed interest-bearing debt. The continued use of its substantial net earnings for additions and betterments is injurious to the income bondholders and an unnecessary burden on the stockholders.

"It is clear that with enough money provided to meet public requirements and secure economical operation an early readjustment will be for the good of all classes of security holders. Counsel advised that it would not be practicable to accomplish such a readjustment without judicial proceedings. The subject became imminent at this time because some of the suits on the company's overdue notes, aggregating about \$3,000,000, which the company is unable to pay, were on the eve of trial.

"Furthermore, proceedings are pending on behalf of income bondholders to enforce their claims. It seemed inadvisable to enter into a period of expensive litigation simply to defer a receivership which in all probability would eventually be unavoidable, inasmuch as the interests of the stockholders and creditors could better be safeguarded by a financial readjustment. The board was advised that a plan of readjustment was under consideration, the details of which would be submitted to the stockholders at an early date."

"The reorganization plan is being prepared by Kuhn, Loeb & Co. and Blair & Co.

"A committee has been formed to protect the second mortgage income bondholders other than the St. Louis, Iron Mountain & Southern, consisting of Mortimer N. Buckner, chairman; Owen F. Roberts and Edward Schafer, with the New York Trust Co. as depository."

In its issue of December 29, 1916, the Railway Age Gazette, speaking of the receivership of the Boston & Maine and the Texas & Pacific, says:

"These two roads were the most important receiverships of 1916, and the causes leading to their bankruptcy are peculiar and are in the nature of something which could not be overcome even by better earnings and more prosperous general business conditions."

Referring more specifically to the Texas & Pacific, the Railway Age Gazette continues:

"The Texas & Pacific fell between the Goulds and the Missouri Pacific. The St. Louis, Iron Mountain & Southern, controlled by the Missouri Pacific, had lent money to the Texas & Pacific, as did also various bankers and the Gould estate. The St. Louis, Iron Mountain & Southern and its parent company—the Missouri Pacific—being in the hands of a receiver, pressure was brought to bear on the Texas & Pacific for payment of all short-term indebtedness. The Goulds apparently did not desire a receivership, but finally consented to one so that their own interests might be conserved by the courts along with the interest of the St. Louis, Iron Mountain & Southern."

President George J. Gould, in his report for the year ending June 30, 1916 (Commercial and Financial Chronicle, p. 1504, Oct. 21, 1916), says:

"In December, 1915, the receiver of the Missouri Pacific-Iron Mountain railways, alleging ownership of \$23,703,000, second-mortgage income bonds of this company, caused the Bankers' Trust Co., as trustee, to bring suit in the United States district court of Dallas, for \$23,872,228 for interest alleged to be in default, and asking foreclosure and a receivership for the Texas & Pacific Railway (vol. 102, pp. 2078, 1988). Our right to a dismissal for want of jurisdiction having been affirmed by the United States Supreme Court, the aforesaid receiver instituted practically the same suit in the United States district court at Monroe, La. This suit is now pending and is being vigorously defended, as

the company denies that any interest is due on the second mortgage and no right of foreclosure exists, and there is no just cause for the appointment of a receiver.

"The receiver mentioned also instituted suit to enforce collection of a series of \$842,000 notes of this company held by him as receiver; this suit was followed by the suit of the Union Trust Co. for \$823,380 on notes of this company held by it. Subsequently the Gould estate commenced suit to enforce the collection of a series of \$1,741,000 notes held by it of this company. All of these notes were past due and unpaid. The suits are now pending.

Moody, in his *Manual of Railroads and Corporation Securities* (1917 edition, p. 921), reports that the Texas & Pacific Railway Co. was incorporated March 3, 1871, under an act of Congress and the general railroad laws of the State of Texas. Moody further says that the company "acquired the Southern Pacific Railway (of Texas), the Southern Transcontinental Railway Co., and the Memphis, El Paso & Pacific Railroad Co. In 1881 absorbed the New Orleans Pacific Railway, through an exchange of stock. In 1884 floods and the failure of the cotton crop necessitated default on interest and a subsequent foreclosure and reorganization. On December 16, 1885, the road went into receiver's hands, and on November 8, 1887, it was sold under foreclosure and subsequently reorganized. The foreclosure sale not having been confirmed, the company retains its original Federal charter."

Subsequent to the foreclosure sale the security holders agreed upon a compromise reorganization plan which the court approved. Considering the Federal charter as one of the chief assets of the company, the security holders requested the court to set aside the foreclosure sale. The request was granted. To-day the Federal charter of the Texas & Pacific is considered as the principal handicap of this system. Reference will hereafter be made to the principal provisions of the charter in so far as they relate to matters covered by this report.

Texas & Pacific owns all of the outstanding stock (\$100,000) of Denison & Pacific Suburban Railway, operating 7.63 miles of road from Denison to Sherman, Tex. The Texas & Pacific also owns 94 per cent of the \$100,000 of outstanding stock of the Weatherford, Mineral Wells & Northwestern Railway, which company owns 41.2 miles of road from Weatherford to Garford, Tex. The \$660,000 of outstanding bonds of the Weatherford are guaranteed, both as to principal and interest, by the Texas & Pacific. The earnings of the Weatherford have been adequate to pay the interest.

In 1915 Texas & Pacific purchased at foreclosure sale the properties of the Opelousas, Gulf & Northwestern Railway Co. of Louisiana. This company owned 57 miles of road, which were constructed by the Texas & Pacific. On October 30, 1914, a receiver was appointed for the Opelousas company. Of the \$2,000,000 outstanding stock Texas & Pacific owned \$1,400,000 and, in addition, owned the entire outstanding bond issue, amounting to \$1,143,000.

To improve the freight and passenger terminals in New Orleans, the Texas & Pacific Railway Co. caused to be organized the Trans-Mississippi Terminal Co. All of the terminal properties of the Texas & Pacific were leased to the terminal company, the Texas & Pacific owning all of the \$100,000 outstanding stock of the terminal company. Subsequently \$50,000 of the terminal company's stock was sold to the St. Louis, Iron Mountain & Southern, so that at the present time the terminal company is controlled by the Texas & Pacific and Iron Mountain. These two roads guarantee jointly and severally Trans-Mississippi Terminal Co. bonds in an amount not exceeding \$7,500,000.

The Wall Street Journal calls attention to the fact that this is the only road in the United States operating under a Federal charter and contends that this charter is hampering the growth and development of the properties of Texas Pacific.

So far as this report is concerned, the important features of the act of March 3, 1871, incorporating the Texas Pacific Railway Co. are:

a. Section 3 provides that, unless authorized by further act of Congress, the outstanding stock of the corporation shall not exceed \$50,000,000.

b. Section 6 provides that if the company acquires the property of another corporation, it may assume the indebtedness of such other corporation in an amount equal to but not to exceed the cash value of the assets acquired.

c. Section 11 provides that the Texas Pacific Railway Co. may issue two kinds of bonds, secured by first mortgage, namely, 1. construction bonds; 2. land bonds. The payment of the construction bonds is to be secured by a first mortgage covering the line of road constructed, whereas the land bonds are to be secured by a first mortgage covering the lands ceded to the company by



this act. Proceeds from both construction and land bonds are to be used to build road from Marshall, Tex., to San Diego, Cal., via El Paso, Tex.

d. Section 14 provides that "The total face value of the construction bonds to be issued shall not exceed \$30,000 per mile of said railroad, and the total face value of the land bonds shall not exceed \$2.50 per acre for all lands mortgaged." The total amount of each kind of bonds, as well as the rate of interest and date of redemption, is to be fixed by board of directors.

e. Section 13 requires the company to file with the United States Department of Interior an annual financial statement showing the amount of money received and expended, the miles of road built each year, names and residence of stockholders, directors, and officers, amount of stock subscribed, the amount actually paid in, a description of the road, the freight and passenger revenues, operating expenses, statement of indebtedness, etc.

Other section of the act relate to the location of the road, the grant of a right of way and station grounds across and on public lands, the granting of alternate sections of land subject to conditions mentioned in the act, declaring the road a military and post road, and defining the rights of the United States Government.

It appears that the Missouri Pacific in 1885, by insisting that the Texas & Pacific pay \$1,300,000 of floating debt held by it, caused the appointment of a receiver for the Texas & Pacific. The reorganization plan as originally drawn up provided for the payment in cash of the \$1,300,000 of indebtedness due the Missouri Pacific. Later the plan was modified, and the Missouri Pacific accepted \$6,500,000 of common stock of the Texas & Pacific at 20 in settlement of its claim.

The last annual report of the Missouri Pacific shows that on June 30, 1916, it owned \$6,525,000 of common stock of the Texas & Pacific and also held \$828,380 of 5 per cent gold notes due June 1, 1915.

St. Louis, Iron Mountain & Southern, whose entire outstanding capital stock is owned by the Missouri Pacific, owned on June 30, 1916:

a. Stock of Texas & Pacific, \$30,000.

b. Second mortgage income bonds of Texas & Pacific, \$23,703,000.

c. Six per cent notes due June 1, 1915, \$842,000.

On June 30, 1916, all of the outstanding second mortgage income bonds of the Texas & Pacific, with the exception of \$958,000, were owned by the Iron Mountain.

Records available show that the Texas & Pacific has paid interest on the income bonds as follows: 1900,  $1\frac{1}{2}$  per cent; 1901, 4 per cent; 1902 to 1907, both inclusive, 5 per cent; 1908,  $3\frac{1}{2}$  per cent; 1909 to 1916, both inclusive, none.

In 1908 the board of directors reported that in view of the uncertainty of railroad earnings they had decided to reduce the interest payment on the income bonds from 5 per cent to  $3\frac{1}{4}$  per cent. On February 15, 1909, the board of directors concluded to omit the interest due on March 1 on the \$24,660,975 of 5 per cent second income bonds, "because there was no surplus from operation available therefor."

The failure of Texas & Pacific to pay interest on its income bonds proved disastrous for the Iron Mountain, whose reports show interest received on funded debt:

1907-----	\$1,484,599.00
1908-----	1,112,692.00
1909-----	330,632.67
1910-----	207,939.00
1911-----	207,939.00
1912-----	93,605.00
1913-----	66,536.68
1914-----	77,107.34
1915-----	97,975.67
1916-----	134,358.00

Texas & Pacific has an authorized stock issue of \$50,000,000, of which \$38,763,810 was outstanding on June 30, 1916. Of the outstanding stock, Missouri Pacific owns \$6,525,000, the Iron Mountain \$30,000, making a total of \$6,555,000.

According to the Wall Street Journal, the interest of the Goulds in the Texas & Pacific is small, but they were able to control it through the Missouri Pacific.

On June 30, 1916, the bonded debt of Texas & Pacific amounted to— \$55,628,000  
This debt consists of:

First consolidated gold 5s, dated Feb. 1, 1888, due June 1, 2000	24,989,000
Second income gold 5s dated Feb. 1, 1888, due Dec. 1, 2000	24,661,000
Louisiana division branch lines first gold 5s dated Jan. 1, 1901, due Jan. 1, 1931	4,970,000
Equipment obligations	1,008,000
Total	55,628,000
Guaranteed bonds, total face value	11,024,000

Moody reports the capitalization of Texas & Pacific on June 30, 1916, per mile of road, as follows:

Stock	\$19,940
Bonds	29,162
Total	49,102
Less securities owned by company	1,552
Net capitalization	47,550

The revenues and expenses of the Texas & Pacific during the past five years are reported as follows:

*Comparative income account, years ended June 30, 1911-16.*

[Data from Moody's Manual of Railroads and Corporation Securities.]

Item.	1915-16	1914-15	1913-14	1912-13	1911-12
Operating revenues	\$19,156,857	\$17,944,637	\$18,813,282	\$18,078,783	\$16,973,223
Operating expenses	13,815,976	13,857,387	14,461,140	14,772,781	13,308,296
Net earnings	5,340,881	4,087,250	4,352,142	3,306,002	3,664,927
Taxes	1,930,245	861,599	757,341	693,441	728,070
Operating income	4,410,636	3,225,651	3,594,801	2,612,561	2,936,857
Other income	407,348	283,873	283,643	137,910	181,219
Total net income	4,817,984	3,509,524	3,878,444	2,750,471	3,118,076
Deductions:					
Interest on bonds	1,561,072	1,575,355	1,600,015	1,637,252	1,624,049
Rentals	283,160	156,566	135,439	121,231	119,221
Hire of equipment	446,566	527,762	446,909	116,430	180,693
Other interest and discount	208,226	221,948	204,909	283,717	229,835
Separately operated property—loss	7,849	5,331	1,580		
Miscellaneous	12,661	25,736	3,745		
Total deductions	2,519,534	2,512,698	2,392,597	2,158,630	2,153,798
Surplus from operations	2,298,450	996,826	1,485,847	591,841	964,278
Additions and betterments	650,880	287,774	641,569	815,892	597,518
Maturing equipment obligations paid	474,833	457,000	466,500	536,291	751,529
Surplus for year	1,172,737	252,052	377,778	(d) 760,342	(d) 384,769

<sup>1</sup> Includes \$9,807 uncollectible railway revenues.

The revenues and expenses per mile of road are reported as follows:

*Revenues and expenses per mile of road operated.*

[Date from Moody's Analyses of Investments.]

Year ended—	Average miles operated.	Gross revenues.	Maintenance.			All other operating expenses.
			Way.	Equipment.	Total.	
Dec. 31, 1906.....	1,848	\$8,110	\$823	\$995	\$1,818	\$3,541
Dec. 31, 1907.....	1,885	8,978	891	1,209	2,100	4,134
Dec. 31, 1908.....	1,885	7,383	955	1,152	2,107	3,351
Dec. 31, 1909.....	1,885	7,937	1,031	1,276	2,307	3,480
Dec. 31, 1910.....	1,885	8,687	1,023	1,580	2,603	3,907
Dec. 31, 1911.....	1,885	8,562	993	1,413	2,406	4,092
June 30, 1913.....	1,885	9,591	1,261	1,580	2,841	4,996
June 30, 1914.....	1,885	9,895	1,175	1,579	2,754	4,799
June 30, 1915.....	1,901	9,440	1,029	1,534	2,563	4,726
June 30, 1916.....	1,944	9,849	1,039	1,565	2,604	4,503
10-year average.....	1,889	8,843	1,022	1,388	2,410	4,153

Year ended—	Net operating revenues.	Total net income.	Taxes accrued.	Balance for charges.	Fixed charges.	Surplus over charges.	Dividends paid on income bonds.
Dec. 31, 1906.....	\$2,751	\$2,768	\$181	\$2,587	\$919	\$1,668	\$667
Dec. 31, 1907.....	2,743	2,802	320	2,482	898	1,584	664
Dec. 31, 1908.....	1,925	1,993	296	1,697	1,077	620	458
Dec. 31, 1909.....	2,150	2,181	284	1,897	990	907	.....
Dec. 31, 1910.....	2,177	2,233	317	1,916	1,034	882	.....
Dec. 31, 1911.....	2,064	2,197	353	1,844	1,098	746	.....
June 30, 1913.....	1,754	1,827	368	1,459	1,145	314	.....
June 30, 1914.....	2,342	2,400	402	1,998	1,210	788	.....
June 30, 1915.....	2,151	2,297	458	1,839	1,314	525	.....
June 30, 1916.....	2,742	2,951	476	2,475	1,293	1,182	.....
10-year average.....	2,280	2,365	346	2,019	1,098	921	179

NOTE.—Above table is based on average mileage directly operated each year.

RECEIVERSHIP OF TRINITY & BRAZOS VALLEY RAILWAY CO.

A. HISTORY.

Colorado & Southern Railway Co. (which in turn is controlled by Chicago, Burlington & Quincy Railroad Co.) and Chicago, Rock Island & Pacific Railway Co., controlled through stock ownership, the Trinity & Brazos Valley Railway Co., on June 16, 1914, when J. W. Robins was appointed receiver. The stock of the Trinity & Brazos was originally purchased by Colorado & Southern and pledged by it to secure in part the payment of its refunding and extension mortgage bonds. Subject to the mortgage lien, the Rock Island interests purchased one-half of the stock in 1906.

The cost of constructing the line of Trinity & Brazos was borne almost entirely by the Colorado & Southern. (I. C. C., vol. 36, p. 52.) Under an agreement of March 31, 1906, the Colorado & Southern and Rock Island were to share the profit and losses of Trinity & Brazos equally. On May 1, 1935, the Rock Island was to pay to the Colorado & Southern one-half of the entire cost of Trinity & Brazos, receiving in return one-half of the bonds of Trinity & Brazos and one-half of the other indebtedness held by Colorado & Southern.

On June 1, 1914, Colorado & Southern and Rock Island Co. entered into a contract releasing each other from any further obligations to make further payments to or for account of the Trinity & Brazos Valley. The Rock Island agreed to pay to the Colorado & Southern one-half of the interest at the rate of  $4\frac{1}{2}$  per cent per annum on the total cost of the Brazos line to May 1, 1935. To June 30, 1914, the total cost of the line was about \$11,000,000.



Under the various agreements up to June 30, 1914, the Rock Island had advanced \$3,729,863.87. The accrued interest aggregates \$774,918.20, making a total of \$4,504,782.07.

Trinity & Brazos Valley lines were to form the Gulf of Mexico outlet for the Colorado & Southern and later for the Rock Island as well. All of the lines are located in Texas.

#### B. MILEAGE.

On June 30, 1913, Trinity & Brazos Valley owned and operated the following mileage:

Owned lines:	Miles.
Cleburne to Houston, Tex -----	236
Teague to Waxahachie, Tex -----	67
Total owned -----	303
Trackage rights:	
Cleburne to Fort Worth, Tex -----	28
Fort Worth to Waxahachie via Dallas -----	67
Houston to Galveston, Tex -----	64
Total trackage -----	159
Total owned plus trackage rights -----	462

In 1914 Receiver J. W. Robins petitioned the court to cancel the following trackage contracts with five roads, on the ground that they were unprofitable:

(a) Missouri, Kansas & Texas, between Dallas and Waxahachie—annual rental, \$24,000.

(b) Chicago, Rock Island & Gulf, between Fort Worth and Dallas—annual rental, \$60,000.

(c) Gulf, Colorado & Santa Fe, Fort Worth to Cleburne and Houston to Galveston—annual rental, \$48,000.

(d) Galveston Terminal, Houston to Galveston—annual rental, \$72,000.

(e) Dallas Terminal and Dallas Union Depot, track rights in city of Dallas—annual rental, \$6,825.

Apparently all of the trackage contracts were canceled, for on June 30, 1916, the company operated under trackage rights but 12.59 miles.

#### C. APPOINTMENT OF RECEIVER.

On January 1, 1914, Trinity & Brazos Valley failed to pay its interest on the first-mortgage bonds. Old Colony Trust Co. of Boston, trustee under the first mortgage, filed its petition for the appointment of a receiver. The petition was granted on June 16, 1914, and J. W. Robins, president, was appointed receiver.

A. D. Parker, vice president of Colorado & Southern, in his annual report for the year ended June 30, 1914, referring to the Trinity & Brazos, says in part:

"In 1907 it had been anticipated that within a reasonable time the revenues of the company would be sufficient to meet the operating expenses and fixed charges. At that time agreements had been made for interchange of traffic with lines other than, and in addition to, the owning companies, which would have provided the Trinity & Brazos Valley Railway Co. with an increasing business, but later the traffic of these other lines was diverted, and this fact, together with the general depression in business and increases in operating expenses, due to increased wage schedules, increased cost of materials, and increases in taxes, rendered it impossible for the Trinity & Brazos Valley Railway Co. to meet its charges and the receivership proceedings followed." (Commercial Financial Chronicle, vol. 99, p. 1524.)

Quoting from the Houston Post, the Commercial and Financial Chronicle in its issue of April 27, 1907 (vol. 84, p. 997), says:

"This company has shortened the distance 13 miles between Houston and Fort Worth, and has caused the fare on the other roads to be correspondingly reduced."

Other than to give the Colorado & Southern and the Rock Island access to the Gulf of Mexico, it is doubtful whether there was a real need for the con-

struction of Trinity & Brazos lines. It operates in a competitive territory. Its revenues during the past few years give little hope for success of the

#### D. ASSETS AND LIABILITIES.

On June 30, 1916, the company reported:

##### Assets:

Cost of road and equipment.....	\$11,792,807
Securities owned.....	63
Cash and current assets.....	156,456
Deferred debit items.....	227,798
Profit and loss.....	10,377,886

Total..... 22,555,010

##### Liabilities:

Capital stock.....	304,000
Bonded debt.....	8,760,000
Other obligations.....	8,140,156
Interest, taxes, and current liabilities.....	5,350,854

Total..... 22,555,010

The issue of the stock and bonds outstanding has been authorized by the Texas Railroad Commission.

The bonded debt consists of but one issue, dated July 1, 1905, due July 1, 1935. Other obligations and debt includes:

Equipment trust certificates.....	\$50,000
Pullman Co. 5 per cent lease warrants.....	99,654
Certificate of indebtedness, 6 per cent.....	7,986,741
Certificate of indebtedness, 4½ per cent.....	597,013

Under its mortgage the company can not issue bonds in excess of \$30,000 per mile.

#### E. REVENUES AND EXPENSES.

Reports published by Moody in his Analyses of Investments show the revenues and expenses, as follows:

Item.	1916	1915	1914	1913	1912
Gross revenue.....	\$912,801	\$980,033	\$2,302,679	\$2,835,818	\$2,572,264
Operating expenses.....	1,043,455	989,107	2,386,502	2,651,120	2,350,149
Net operating revenue.....	<sup>1</sup> 130,654	<sup>1</sup> 9,074	<sup>1</sup> 83,823	184,698	222,115
Other income.....	75,175	86,121	4,231	561	428
Total net income.....	<sup>1</sup> 55,479	77,047	<sup>1</sup> 19,592	185,259	222,543
Fixed charges, including taxes.....	1,197,441	1,187,113	1,417,525	1,413,646	1,385,342
Deficit.....	<sup>1</sup> 1,252,920	<sup>1</sup> 1,110,066	<sup>1</sup> 1,497,117	<sup>1</sup> 1,228,387	<sup>1</sup> 1,162,799

<sup>1</sup> Deficit.

The decrease in revenues in 1915 followed the appointment of the receiver, the cancellation of trackage contracts, and the difficulties of the Rock Island.

The reorganization plan of the Rock Island did not cover the Trinity & Brazos Valley Railway Co.

The properties of the Trinity & Brazos Valley are still in the possession of the receiver.

#### RECEIVERSHIP OF TOLEDO, ST. LOUIS & WESTERN RAILROAD CO. (CLOVER LEAF ROUTE).

In its editorial of August 30, 1907, the Railway Age Gazette (vol. 43, p. 22), referring to the sale of Chicago & Alton, says in part:

"Even while Wall Street is in the depths there comes news of a new railroad merger. The Toledo, St. Louis & Western, a small road with one single line connecting Detroit and Toledo on the east with St. Louis on the west, adds to its 450 miles of line and \$4,200,000 of gross earnings the 970 miles and \$11,600,000 gross earnings of the Chicago & Alton, a far stronger and better

equipped property. This has been brought about through its acquisition of \$20,800,000 of the total of about \$40,000,000 capital stock of the Chicago & Alton. This controlling block of Alton stock was sold by the Rock Island Co. and interests identified with it. The Rock Island made its investment in Chicago & Alton in 1903, after the Union Pacific had acquired over \$10,000,000 Chicago & Alton preferred. The Rock Island's object was to prevent the road from falling under entire control of the Union Pacific. In this the Rock Island interests were successful, for they secured more than enough stock to give them actual control of the property. Despite this fact an agreement was made with the Union Pacific by which the Alton was to be held under a system of alternating control, the Union Pacific managing the property one year and the Rock Island the next. This agreement, however, was abrogated last June. The Rock Island Co. controls the Chicago & Eastern Illinois, which parallels the Alton between Chicago and St. Louis, Kansas City & Colorado, which parallels the Alton between St. Louis and Kansas City. The Rock Island's control of the Alton, therefore, drew unfavorable criticism from the Interstate Commerce Commission. The Rock Island interests realized that they would not be allowed by the United States Government to keep possession of the Chicago & Alton, and therefore were glad to sell the property to the Toledo, St. Louis & Western at a loss said to be about \$4,500,000 on the original investment.

The Chicago & Alton stock purchased by the Toledo, St. Louis & Western is to be paid for by that company by issuing its collateral trust bonds secured by the Alton stock. Four per cent bonds are to be issued against the preferred stock at par and 2 per cent bonds against the common stock at 35. The rate on these latter bonds is to be raised to 4 per cent at the end of five years. Figuring the preferred stock at par and the common stock at 35, the par value of these collateral securities which the Toledo, St. Louis & Western is to issue will be \$11,227,000, of which \$5,380,000, issued against the preferred stock, will be paying 4 per cent, and \$4,847,000, issued against the common stock, will be paying 2 per cent.

"One obvious advantage to both roads is that by building 7 miles of line from Panama, Ill., on the Toledo, St. Louis & Western, 50 miles northeast of St. Louis, west to Litchfield, the eastern terminal of the Chicago & Alton branch, the consolidated system will have a short through line from Kansas City east to Toledo and Detroit."

In its issue of October 30, 1914, the Railway Age Gazette (vol. 57, p. 819), referring to the receivership of Toledo, St. Louis & Western, quotes from the Wall Street Journal, in part, as follows:

"Not long after the Rock Island people tired of holding, and in 1907, D. G. Reid, with characteristic facilities, sold the Alton to the Clover Leaf, then under control of Edwin Hawley and his associates. In this transaction the Clover Leaf acquired \$14,420,000 of Alton common and \$6,480,000 Alton preferred, giving in exchange \$6,480,000 series 'A' 4 per cent and \$5,047,000 series 'B' bonds to bear 2 per cent interest to July 31, 1912, and 4 per cent thereafter.

"In the year of this sale Alton paid 4 per cent on its preferred stock and 4 per cent on the prior lien participating preferred stock. In the following year an initial dividend of 1 per cent was paid on the common 4 per cent on the preferred 5 per cent. Subsequently dividends were paid as follows:

Year.	Common.	Pre-ferred.	Prior lien.	Year.	Common.	Pre-ferred.	Prior lien.
	<i>Per cent.</i>	<i>Per cent.</i>	<i>Per cent.</i>		<i>Per cent.</i>	<i>Per cent.</i>	<i>Per cent.</i>
1909.....	4	4	8	1913.....	0	0	0
1910.....	2	4	4	1914.....	0	0	0
1911.....	0	2	4	1915.....	0	0	0
1912.....	0	0	2	1916.....	0	0	0

"Inability of the Alton to maintain its dividends obligated the Clover Leaf in 1911 to pass the 4 per cent dividend on its preferred stock, which had been paid regularly from 1907 to October, 1911. Since then no dividend has been paid on the Clover Leaf preferred. The burden of carrying the Alton bag was too onerous. Clover Leaf paid par for the \$6,480,000 Alton preferred stock, and \$35 per share for the \$14,420,000 par value of common stock, paying in bonds.

"The article in the Wall Street Journal continues that Alton preferred was quoted at 12 when the market closed last July (1914), the common at 9. The



investment in preferred, which cost \$6,480,000, is now worth only \$777,600 at market price, and the common, which cost \$5,047,000, would be worth \$1,297 on the same basis.

"It is not believed that the Clover Leaf interests would be at all loath to part with the Alton investment."

During 1916 Alton preferred sold for from 18 to 33, Alton common from 8 to 24½.

To summarize the foregoing transaction, Toledo, St. Louis & Western issued \$11,527,000 of 5-year collateral trust bonds, due August 1, 1917, to acquire \$20,900,000 of Chicago & Alton stock.

Chicago & Alton 4 per cent preferred, at par.....	\$6, 480, 000
Chicago & Alton common, at 35 per share.....	14, 420, 000

Total par value.....	20, 900, 000
Total cost.....	11, 527, 000

Issued in payment for stock, series "A" 4 per cent bonds, due	
Aug. 1, 1917.....	6, 480, 000
Series "B" bonds (2 per cent interest to 1912, 4 per cent to 1917) ..	5, 047, 000
Total .....	11, 527, 000

The payment of these bonds is secured by the preferred and common stock of Chicago & Alton, purchased from Rock Island.

At the time this transaction was consummated it was evident that the ability of the Clover Leaf to pay the interest on the \$11,527,000 collateral trust bonds was dependent upon the continuance of the Alton to pay dividend on its stock. Almost as soon as the Alton dividends ceased Toledo, St. Louis & Western was confronted with financial difficulties. Its first step was to pass payment of dividend on its 4 per cent preferred stock; its second to refuse to pay interest on the collateral trust bonds. Following this default and at the request of H. C. Creith, a creditor holding a claim of \$10,711, Judge Killets, of the United States district court, of Columbus, Ohio, appointed President W. L. Ross, receiver.

On June 30, 1916, Toledo, St. Louis & Western owned the following securities:

	Par value.
Chicago & Alton preferred stock.....	\$6, 480, 000
Chicago & Alton common stock.....	14, 420, 000
Detroit & Toledo Shore Line R. R. Co. stock.....	714, 000
Detroit & Toledo Shore Line R. R. Co.'s first 4s .....	416, 000
Toledo Terminal R. R. Co.'s common stock.....	387, 200
Toledo Terminal R. R. Co.'s first-mortgage bonds.....	24, 000
Toledo Terminal R. R. Co.'s certificates of indebtedness.....	120, 752
First Infantry Army Association stock .....	500
City's Telephone Co., Decatur, Ind.....	150
Membership of Merchants' Exchange.....	150
Total par value.....	22, 562, 802
Total book value.....	12, 740, 203

The stock of the Alton company is still being carried on the books of the company at its approximate original cost. As indicated above, the ability of the Toledo company to pay its fixed charges depends largely upon the dividends received on its Alton stock. The dividends thus received are in the annual reports, published by Moody, included under the item of "Other income." The variations in "other income" of Toledo, St. Louis & Western is shown by the following statement:

	Amount.		Amount.
1908.....	\$418, 943	1913.....	\$96, 482
1909.....	883, 614	1914.....	373, 640
1910.....	633, 220	1915.....	145, 686
1911.....	214, 131	1916.....	117, 152
1912.....	151, 768		

Toledo, St. Louis & Western and Grand Trunk Western Railway each own 50 per cent of the \$1,500,000 outstanding stock of Detroit & Toledo Shore Line Railroad. In addition, the Toledo company owns \$416,000 of its first-mortgage bonds. The payment of the bonds, both as to principal and interest, is guaran-

teed by the Toledo company and the Grand Trunk Western R. R. Co. The Shore Line road forms a connecting link between the Grand Trunk Western and the Toledo company. The entire outstanding stock of the Grand Trunk Western is owned by the Grand Trunk Railway of Canada, which guarantees the payment of the interest on the bonds of the Grand Trunk Western. The Detroit & Toledo Shore Line Railroad has paid dividends as follows:

	Amount.		Amount.
1908.....per cent.....	4	1913.....per cent.....	8
1909.....do.....	4	1914.....do.....	14
1910.....do.....	6	1915.....do.....	8
1911.....do.....	8	1916.....do.....	8
1912.....do.....	16		

In addition, this company in 1913 declared a special dividend payable in bonds amounting to \$630,000. The Toledo company's share was \$315,000; valuing the bonds at \$5 gives a book value of \$267,750. This payment of a special dividend of the Toledo and Shore Line accounts in large part for the \$373,640 of the income of the Toledo company in 1914.

The Toledo company also owns one-ninth interest in the Toledo Terminal Railroad Co. This company owns a system of belt lines in and about Toledo. Up to 1916 its earnings have not been adequate to pay bond interest and other fixed charges.

The following table shows the average miles operated by the Toledo company and its revenues and expenses per mile operated:

*Toledo, St. Louis & Western Railroad Co.*

[Data from Moody's Analyses of Railroad Investments.]

Year ended June 30—	Average miles operated.	Gross earnings per mile.	Operating expenses per mile.		Net operating revenues per mile.	Other income per mile.	Net income per mile.
			Maintenance.	All others.			
1903.....	451	\$6,903	\$1,992	\$3,015	\$1,806	\$20	\$1,916
1904.....	451	7,414	1,997	3,385	2,032	11	2,043
1905.....	451	8,393	2,192	4,129	2,072	52	2,124
1906.....	451	9,324	2,475	4,212	2,637	58	2,695
1907.....	451	9,273	2,314	3,902	3,057	75	3,132
1908.....	451	8,472	2,106	3,603	2,763	929	3,692
1909.....	451	7,602	1,668	2,939	2,995	1,960	4,955
1910.....	451	8,365	2,086	3,204	3,075	1,404	4,479
1911.....	451	8,375	2,273	3,505	2,597	432	3,029
1912.....	451	8,578	2,316	3,604	2,658	275	2,933
1913.....	451	9,612	2,457	3,973	3,182	147	3,329
1914.....	451	10,173	2,356	4,602	3,215	1,828	4,043
1915.....	451	10,302	3,151	4,620	2,531	324	2,855
1916.....	450	12,534	3,288	4,765	4,481	260	4,741

Year ended June 30—	Taxes per mile.	Balance for charges.	Fixed charges per mile.	Margin of safety.	Surplus over charges.	Dividends per mile.
				Per cent.		
1903.....	(2)	\$1,916	\$1,535	20	\$381	.....
1904.....	(2)	2,043	1,545	24	498	.....
1905.....	(2)	2,124	1,594	25	530	.....
1906.....	(2)	2,695	1,607	40	1,088	.....
1907.....	\$296	2,836	1,406	50	1,430	\$443
1908.....	308	3,384	2,302	32	1,082	883
1909.....	330	4,625	2,344	45	2,081	883
1910.....	364	4,115	2,453	40	1,662	883
1911.....	379	2,650	2,489	6	161	883
1912.....	398	2,535	2,601	.....	126	412
1913.....	398	2,931	2,789	5	142	.....
1914.....	451	3,589	3,282	9	307	.....
1915.....	556	2,299	3,478	.....	1,179	.....
1916.....	462	4,279	3,560	17	719	.....

<sup>1</sup> Other income in 1914 included dividends (in bonds) on Detroit & Toledo Shore Line R. R. stock, \$321,870, as well as interest on securities held.

<sup>2</sup> Included under fixed charges.

<sup>3</sup> Included taxes.

<sup>4</sup> Deficit.

As reported in Moody's Analyses of Railroad Investments Toledo, St. Louis & Western Railroad is capitalized per mile of road as follows:

Years ended June 30—	Stock.	Bonds.	Stock and bonds.	Stock and bonds owned by company.	Net capitalization.
1903.....	\$44,341	\$34,922	\$79,263	\$698	\$78,565
1904.....	44,341	35,476	79,817	2,138	77,679
1905.....	44,341	36,030	80,371	992	79,379
1906.....	44,341	36,554	80,895	1,103	79,792
1907.....	44,341	36,554	80,895	1,114	79,781
1908.....	44,341	63,631	107,974	27,363	80,611
1909.....	44,230	62,810	107,040	27,339	79,701
1910.....	44,346	62,587	106,933	27,575	79,358
1911.....	44,342	62,146	106,488	28,460	78,028
1912.....	44,342	62,144	106,486	28,458	78,028
1913.....	44,342	62,144	106,486	28,458	78,028
1914.....	44,346	65,177	109,523	28,909	80,614
1915.....	44,346	64,586	108,932	29,104	79,828
1916.....	44,444	64,200	108,644	29,105	79,539

<sup>1</sup> Increase in capitalization due to issue of \$11,527,000 collateral trust bonds in 1907 to acquire \$20,900,000 of Chicago & Alton Railroad Co. stock.

#### RECEIVERSHIP OF THE WABASH-PITTSBURGH TERMINAL RAILWAY CO.

The Wabash-Pittsburgh Terminal Railway Co. was organized in 1904 as a part of a general plan of the Gould interests for developing a transcontinental railroad system. Under this plan was acquired the Wheeling & Lake Erie as well as the Western Maryland. The Wheeling extended from Toledo, Ohio, where it joined with the Wabash southeasterly to Steubenville, Ohio, and to Wheeling, W. Va., with branches northward to Cleveland, Ohio, and southward to Zanesville, Ohio. It did not enter Pittsburgh nor reach the Pittsburgh district.

To construct the Pittsburgh extension and acquire control of the Wheeling & Lake Erie the Wabash and Gould interests caused the formation of a syndicate known as the Pittsburgh-Toledo Syndicate, of which George Gould, Joseph Ramsey, jr. (president of the Wabash), Louis Fitzgerald, James H. Hyde, and Myron T. Herrick were managers. On July 17, 1901, the syndicate caused the organization of the Pittsburgh, Carnegie & Western Railway by the consolidation of the Washington County and the Pittsburgh & Mansfield Railroad Cos. It was contemplated that the 60-mile extension from Jewett, Ohio, on the Wheeling & Lake Erie to Pittsburgh be constructed by the Pittsburgh, Carnegie & Western. This company had an authorized capital stock of \$2,000,000. It never issued any bonds, the funds for construction being advanced by the Pittsburgh-Toledo Syndicate.

In 1904 the syndicate caused the organization of the Wabash-Pittsburgh Terminal Railway Co., which represented a consolidation of the Pittsburgh, Carnegie & Western, the Cross Creek Railroad, and the Pittsburgh, Toledo & Western Railroad.

A circular issued by the syndicate managers of the Pittsburgh-Toledo Syndicate in June, 1904 (Commercial and Financial Chronicle, vol. 78, p. 2043), shows that up to October 1, 1903, the syndicate had expended for construction purposes, for the purchase of the controlling interest in the Wheeling & Lake Erie, and the acquisition, etc., of terminals, the sum of \$17,202,640. It was estimated that an additional sum of \$12,510,742 would have to be expended to complete the construction work in progress. This included the lines in Pittsburgh to connect with the Union Railroad, the South Side Freight House Spur, and the Allegheny & Duquesne Way Branches. The aggregate of the expenditures incurred or to be incurred amounted to \$29,713,382—a sum which was to be raised as follows:

(1) Syndicate subscriptions paid in full.....	\$20,000,000
(2) Sale of first-mortgage 4 per cent bonds of Wabash-Pittsburgh Terminal Railway.....	10,000,000

In this circular the syndicate managers also served notice that henceforth the work would be carried forward by the Wabash-Pittsburgh Terminal Railway Co.



Shortly after its organization the Wabash-Pittsburgh Terminal Railway Co. acquired control through purchase of the entire stock of the Pittsburgh Terminal Railroad & Coal Co., which controlled the West Side Belt Railroad. The coal company was organized April 23, 1902, and besides purchasing the controlling stock interest in the West Side Belt Railroad also purchased 12,200 acres of coal lands for \$3,670,000 from J. W. Scully, Pittsburgh, the Donaldson Haynes Noble interest, J. B. Corey, and Le Mayne interests, of Pittsburgh. (Commercial and Financial Chronicle, vol. 75, p. 498.)

The West Side Belt Railroad owned about 22½ miles of line extending southward from Pittsburgh to Clairton, Pa., the location of the Carnegie works.

The line of the Wabash-Pittsburgh Terminal, extending from Pittsburgh Junction (also known as Jewett, Ohio), on the Wheeling & Lake Erie, into Pittsburgh, distance 64 miles, was opened for traffic on June 30, 1904. A. W. Ferrin, in an article entitled "The Wabash-Pittsburgh Terminal" (Moody's Magazine, vol. 17, p. 393), alleges that the Wabash-Pittsburgh Terminal Railroad Co. expended between \$15,000,000 and \$20,000,000 on the 64 miles of road into Pittsburgh, \$12,000,000 for the West Side Belt Line, \$5,000,000 for the terminal properties in Pittsburgh, and \$6,200,000 for the control of the Wheeling & Lake Erie, making a total of from \$43,200,000 to \$48,200,000.

J. Ramsey, jr., president of the Wabash, in his stockholders' report for the year ending June 30, 1904, referring to the Pittsburgh extension, says in part:

"In 1901 the stockholders of the company authorized the officers of the company to enter certain trackage and traffic agreements with the Wheeling & Lake Erie and the Pittsburgh-Carnegie & Western Railroad Co. to secure the construction of a line of railroad from a point on the Wheeling & Lake Erie near Jewett, Ohio, to Pittsburgh, with all necessary terminals and connecting railways in Pittsburgh, with a close traffic alliance between the three connecting railroads so as to practically made them one system. This agreement was afterwards modified, and the amended agreement provided that the Wabash and the Wheeling & Lake Erie Cos. should, if it became necessary so to do, pay 25 per cent (or so much thereof as might be required to meet any deficit on the bonds of the Wabash-Pittsburgh Terminal Railway Co.) of gross earnings of either company from traffic which they received from or delivered to the Wabash-Pittsburgh Terminal Railway Co. This condition puts no burden on either company, as they will not be required to pay anything unless they have increased earnings on account of the Wabash-Pittsburgh Terminal lines.

"The Pittsburgh, Carnegie & Western, through consolidation with the Cross Creek Railroad in West Virginia and the Pittsburgh, Toledo & Western in Ohio, became the Wabash-Pittsburgh Terminal Railway Co., and the latter company has carried, or is carrying, out all the obligations assumed by the Pittsburgh, Carnegie & Western Railroad Co.

"On July 2, 1904, the line was opened for through passenger traffic and through train service between St. Louis, Chicago, and Pittsburgh by Wabash trains.

"The Wabash-Pittsburgh Terminal Railway Co. also purchased the controlling stock interest in the Wheeling & Lake Erie Railroad, thus owning and controlling some 550 miles of railway lines, reaching from Pittsburgh to Toledo, Cleveland, Wheeling, Steubenville, and Zanesville, the greatest freight traffic territory in the word, the Pittsburgh district alone last year consuming and shipping over 86,000,000 tons of coal, coke, ores, irons, etc.

"A proposition was submitted to the board for the purchase by the Wabash of all the stock of the Wabash-Pittsburgh Terminal Railway Co. (\$10,000,000) by the issuance of \$10,000,000 Wabash common stock in exchange therefor. As the ownership of the stock of the Wabash-Pittsburgh Terminal Co. carries with it the controlling interest in the Wheeling & Lake Erie Railroad, your board authorized the purchase, and the exchange of stock was made.

"Your board has at the same time authorized the purchase of \$6,600,000 first-mortgage bonds of the Wabash-Pittsburgh Terminal Railway Co. for \$6,000,000. This purchase was made and paid for through the issuance of a three-year obligation secured by the \$6,600,000 of bonds as collateral. It is confidentially expected that the control of these properties and of the traffic secured to the Wabash thereby will add largely to the revenues of the company."

In its issue of June 1, 1904, the Commercial and Financial Chronicle (vol. 78, p. 2386), referring to the Wabash-Pittsburgh Terminal Railway, says in part:

Members of the Pittsburgh-Toledo Syndicate for \$20,000,000 have acquired control of the Wheeling & Lake Erie and built the extension of 64 miles from Jewett, Ohio, on the line of the Wheeling & Lake Erie into Pittsburgh and the

terminals there, made their last payments on syndicate account on Monday of this week, call being for 30 per cent, or \$6,000,000. Distribution was then made to the subscribers of the securities of this company (Wabash-Pittsburgh Terminal Railway Co.), which was organized to take over and operate the properties of the syndicate. The subscribers received 67 per cent of first-mortgage 4 per cent 50-year gold bonds, 92½ per cent in second-mortgage 4 per cent 50-year gold bonds of the Wabash-Pittsburgh Terminal Railway Co., and 50 per cent in common stock of the Wabash Railroad Co. The par value of securities distributed was as follows:

(1) Wabash-Pittsburgh Terminal Railway Co. first-mortgage 4 per cent 50-year bonds.....	\$13,400,000
(2) Wabash-Pittsburgh Terminal Railway Co. second-mortgage 4 per cent 50-year bonds.....	18,500,000
(3) Wabash Railroad Co., common stock.....	10,000,000
Total .....	41,900,000

The capitalization per mile of road amounted to:

(a) Stock.....	\$156,250
(b) Bonds .....	498,437
Total .....	654,687

A provision of the second mortgage provided that the company prior to June 30, 1910, was under no obligation to pay interest on the second-mortgage bonds unless earned. The stock of the terminal company was admittedly all water, while Wabash common issued in exchange therefor was selling at about \$15 per share. Under the circumstances, one may safely assume that many of the members of the Pittsburgh-Toledo Syndicate who received Wabash common sold the same at the then prevailing market price.

The balance sheet of the Wabash-Pittsburgh Terminal Railway Co., as of November 30, 1904, shows the following:

ASSETS.	
Cost of road, franchises, etc.....	\$40,182,220
Construction expenditures.....	4,546,622
Wheeling & Lake Erie stock.....	6,000,000
Pittsburgh Terminal R. R. & Coal Co. stock.....	3,159,740
Interest on first-mortgage bonds.....	405,722
Supplies.....	823
Cash.....	873,386
Accounts collectible.....	167,017
Bills receivable.....	373,450
Due from station agents.....	4,756
Remittances in transit.....	1,688
Total assets.....	55,715,424

LIABILITIES.	
Capital stock.....	10,000,000
First-mortgage bonds.....	19,500,000
Temporary first-mortgage bonds.....	5,000,000
Second-mortgage bonds.....	20,000,000
Interest accrued not due.....	500,000
Vouchers and pay rolls.....	515,621
Due railroads.....	50,303
Assistant treasurer, overdraft.....	96,613
Surplus.....	52,887
Total liabilities.....	55,715,424

Early in 1905 the New York Stock Exchange listed \$25,000,000 first-mortgage 4s and \$20,000,000 second-mortgage 4s of Wabash-Pittsburgh Terminal Railway Co. In support of its application to have its bonds listed on the New York Exchange, the terminal company, in its official statement of February 16, 1905, reported, among other things:

(A) The lien of the first and second mortgage covers the 64 miles of road from Jewett, Ohio, to Pittsburgh, also all equipment, terminals, etc., also all leaseholds and contracts and stock of the Wheeling & Lake Erie (pledged to secure first-mortgage bonds only), as follows:

Class of stock.	Total issued.	Total owned and pledged.
First preferred.....	\$4,896,900	\$847,500
Second preferred.....	11,993,500	6,423,800
Common.....	20,000,000	11,870,000

(B) Since the execution of the mortgages the company has acquired all of the capital stock of the Pittsburgh Terminal Railroad & Coal Co., which, in turn, owns practically all of the outstanding stock of the West Side Belt Railroad Co. The outstanding stock and bonds of these companies consists of the following:

(1) Pittsburgh Terminal Railroad & Coal Co. stock.....	\$14,000,000
(2) Pittsburgh Terminal Railroad & Coal Co bonds.....	4,690,000
(3) West Side Belt Railroad Co. stock.....	1,065,000
(4) West Side Belt Railroad Co. bonds.....	380,000

(C) Carnegie Steel Co. has agreed to give Wabash-Pittsburgh Terminal Railway Co. one-fourth of all its traffic, as well as of its affiliated companies, to and from points west of Buffalo and Pittsburgh and west of the west line of Pennsylvania projected southward, which can reasonably well be served by the railroad company.

(D) Traffic agreements and contracts between Wabash Railroad Co., the Wheeling & Lake Erie, and the Wabash-Pittsburgh Terminal Railway Co. are designed to weld these three roads into a single system.

(E) The contract between Pittsburgh Terminal Railroad & Coal Co. and the Pittsburgh Coal Co. provides for the operation by the latter company of the mines of the former upon terms which include the payment of a license tax by Pittsburgh Coal Co. amounting to \$350,000 a year, the amount being equal to interest on outstanding bonds of the Terminal Railroad & Coal Co.; a royalty of 8 cents per ton on the coal mined, this royalty to be applied to sinking-fund payments required by the Terminal Railroad & Coal Co.'s mortgage, to pay all taxes and interest, and to ship at least 4,000,000 tons of coal annually over the Wabash lines.

These contracts being looked upon at the time of their execution as of great value to the Terminal Railway Co., proved worthless after that company was thrown into the hands of receivers, and the Wabash deliberately refused to furnish necessary equipment. The Pittsburgh Coal Co. abrogated its contract in 1909 on the grounds that the Terminal Railway Co. was not able to furnish cars. The coal mined along the West Side Belt has been diverted to and shipped over the Pittsburgh & Lake Erie and the Bessemer lines.

On the petition of the Wabash Co. and other creditors, receivers were appointed for the Wabash-Pittsburgh Terminal Railway Co. on May 29, 1908. The bill of complaint alleged that the Wabash-Pittsburgh Terminal Railway Co. was unable to pay \$300,000 of notes held by the Wabash, nor was it able to pay its interest. The bill of complaint showed the outstanding liabilities to consist of the following:

First mortgage 4 per cent bonds (including \$6,600,000 owned by Wabash).....	\$30,200,000
Second mortgage 4 per cent bonds (interest prior to June 1, 1910, payable if earned).....	20,000,000
Notes payable:	
To Wabash, 7 per cent note dated Nov. 30, 1906.....	300,000
To Wabash, 5 per cent note dated May 30, 1905, secured by pledge of \$14,000,000 stock of Pittsburgh Terminal Railroad & Coal Co.....	1,500,000
To Pittsburgh Railroad & Coal Co., note dated May 1, 1905, secured by pledge of \$3,800,000 of first consolidated mortgage bonds of the Pittsburgh Terminal Railroad & Coal Co., and indorsed by last-named company—entire amount owned and pledged by Wabash Railroad.....	3,500,000



## Notes payable—Continued.

To Pittsburgh Terminal Railroad & Coal Co., note dated June 15, 1906-----	\$93,500
To Mercantile Trust Co., note dated May 27, 1906-----	412,000
To Wabash Railroad Co., note dated May 7, 1906-----	268,000
Audited accounts payable-----	278,000
Purchase money mortgages-----	800,000
Interest payable due on promissory notes-----	418,586

Total----- 57,770,686

On June 30, 1916, Wabash-Pittsburgh Terminal Railway Co. reported assets and liabilities as follows:

## ASSETS.

Road and equipment-----	\$53,420,103
Stocks of affiliated companies-----	9,172,227
Bonds of affiliated companies-----	3,500,000
Cash-----	145
Special deposits-----	12,211
Loans and bills receivable-----	335,000
Miscellaneous accounts receivable-----	114,909
Profit and loss-----	1,335,452
Total-----	67,890,047

## LIABILITIES.

Capital stock-----	10,000,000
Bonded debt-----	50,401,834
Loans and bills payable:	
Wabash R. R. demand notes secured-----	5,268,000
Wabash R. R. demand notes unsecured-----	300,000
Pittsburgh Terminal R. R. & Coal Co. demand note unsecured-----	8,000
Mercantile Trust Co., demand note unsecured-----	79,074
Real estate mortgages, demand-----	629,383
Audited accounts and wages-----	105,168
Interest matured unpaid-----	1,034,836
Accrued depreciation equipment-----	176
Advances by receiver-----	63,576

Total----- 67,890,047

The receiver's general balance sheet as of June 30, 1916, shows the following assets and liabilities:

## ASSETS.

Road and equipment-----	\$2,457,047
Cash-----	161,560
Special deposits-----	24,448
Traffic, etc., balances-----	23,796
Agents and conductors-----	17,004
Miscellaneous accounts receivable-----	82,900
Material and supplies-----	71,484
Other current assets-----	4,180
Working fund advances-----	123
Unadjusted debits-----	13,268
Advances to corporate company-----	63,576
Profit and loss-----	273,300

Total----- 3,192,686

## LIABILITIES.

Receiver's certificates-----	2,395,880
Traffic, etc., balances-----	1,688
Audited accounts and wages-----	463,432
Miscellaneous accounts payable-----	4,126
Interest matured unpaid-----	20,250

Unmatured interest accrued.....	\$43,567
Other liabilities.....	2,423
Tax liability.....	53,392
Accrued depreciation, equipment.....	193,921
Other unadjusted credits.....	14,007
<b>Total.....</b>	<b>3,192,686</b>

The funded debt of the company on June 30, 1916, consisted of: (a) First mortgage 4 per cent bonds, \$30,236,000; (b) second mortgage 4 per cent bonds, \$20,000,000; (c) real estate mortgages, \$795,218; (d) receiver's certificates, \$2,395,880.35.

The revenues and expenses of the Wabash-Pittsburgh Terminal Railway Co. from 1907 to 1916 have been reported, as follows:

*Wabash-Pittsburgh Railway Co.*

Year ended June 30—	Gross earnings.	Operating expenses and taxes.	Net earnings.	Other income.	Interest, etc.	Deficit for year.
1906-7.....	\$1,488,965	\$861,671	\$627,294	\$210,208	\$1,453,479	\$615,983
1907-8.....	1,180,005	689,894	490,111	63,644	1,465,229	911,473
1908-9.....	719,544	579,767	139,777	85,210	245,858	20,871
1909-10.....	743,568	659,995	83,573	68,002	227,654	76,079
1910-11.....	677,130	622,286	54,844	89,746	258,815	114,225
1911-12.....	662,819	642,401	20,418	109,381	206,685	76,887
1912-13.....	814,318	824,111	9,793	89,764	239,662	159,691
1913-14.....	870,293	791,306	78,987	86,483	226,247	60,777
1914-15.....	793,002	725,395	67,607	78,705	204,187	57,875
1915-16.....	1,087,060	851,599	235,461	197,930	227,557	<sup>2</sup> 205,834

<sup>1</sup> Deficit.

<sup>2</sup> Surplus.

The foregoing earnings statement, following the appointment of receivers, does not show the interest accrued. A mere casual examination of the capitalization and earnings of the Wabash-Pittsburgh Railway Co. convinces one that the chief difficulty of this company is one of gross overcapitalization. Following the appointment of receivers in 1908, various security holders appointed committees to protect their interests. It was not, however, until June 25, 1915, that the committees agreed on a reorganization plan. This plan, dated June 25, 1915, amended January 10, 1916, has been declared operative. The properties have been sold at foreclosure sale, and the Pennsylvania Public Service Commission on January 17, 1917, authorized the transfer of same to the Pittsburgh & West Virginia Railway.

The important features of the reorganization plan, so far as this report is concerned, may be summarized as follows:

(A) *Existing capitalization of the Wabash-Pittsburgh Terminal Railway Co., Pittsburgh Terminal Railroad & Coal Co., and West Side Belt Railroad Co.<sup>1</sup>*

1. Bonds not in default:		
Pittsburgh Terminal Railroad & Coal Co. first 5s.....	\$3,922,000	
West Side Belt Railroad first 5s.....	383,000	
		\$4,305,000
2. Real estate mortgages:		
Terminal Land Co. mortgage.....	99,650	
Underlying real estate mortgages.....	795,868	
		895,518
3. Receivers' certificates:		
Terminal Co.....	2,395,880	
West Side Belt Railroad Co.....	714,286	
		3,110,166
4. Secured indebtedness:		
To the Wabash Railroad Co., with interest July 1, 1915, secured by the pledge of the entire capital stock and all the outstanding consolidated bonds of the coal company.....	7,464,826	
Other secured indebtedness.....	578,271	
		8,043,097

<sup>1</sup> Excluding intercompany indebtedness, securities pledged to secure indebtedness included, stock of subsidiary companies, and current liabilities.

## 5. Bonds in default:

## Terminal Co.—

First-mortgage bonds .....	\$30, 236, 000
Second-mortgage bonds .....	20, 000, 000
Interest unpaid and accrued thereon to July 1, 1915 (exclusive of interest on interest) ..	13, 459, 343
	63, 695, 343

## 6. Unsecured indebtedness:

To the Wabash Railroad Co. ....	664, 808
Other unsecured indebtedness .....	216, 413
Contingent claims .....	330, 000
	1, 211, 221

7. Stock of the Terminal Co .....	10, 000, 000
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Total present capitalization .....	91, 260, 345
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## (B) Estimated cash requirements.

Wabash-Pittsburgh Terminal receiver's certificates .....	\$2, 395, 880
West Side Belt receiver's certificates .....	714, 286
Acquisition of properties (including stock and bonds of the coal company), discharge of judgments against West Side Belt, and other claims against West Side Belt and its receiver requiring provision in reorganization .....	3, 818, 152
Terminal Land Co. mortgage .....	99, 650
Receivership obligations in excess of surplus, taxes, judgments, etc. ....	375, 345
Other claims requiring provision in reorganization, including reorganization expenses, cost of incorporation of new company, and issuance of new stock, including Federal taxes and State taxes in three States, working capital, etc. ....	1, 667, 487
Total .....	9, 070, 800

To provide the cash requirements, amounting to \$9,070,800, the reorganization plan levies a \$30 assessment on each \$1,000 first-mortgage bond deposited under the reorganization agreement. On January 10, 1916, the reorganization committee gave notice that it had modified the reorganization plan so as to permit it to procure an underwriting of the cash requirements of the plan up to \$5,000,000 and to defray as part of the expenses of the reorganization the commissions paid in respect thereof. The necessity of obtaining an underwriting agreement was brought about by the failure of the first-mortgage bondholders to deposit a sufficient amount of bonds to assure the raising of \$9,070,800 of cash.

The new company is to issue:

(1) Six per cent preferred stock cumulative after Jan. 1, 1921 .....	\$9, 100, 000
(2) Common stock .....	30, 500, 000

The preferred stock will be subject to redemption at any time at 105 and accumulated dividends.

It will be remembered that the Wabash & Pittsburgh Terminal Railroad Co. owned Wheeling & Lake Erie stock as follows:

First preferred .....	\$847, 500
Second preferred .....	6, 423, 800
Common .....	11, 870, 000

The Wheeling & Lake Erie, as well as the new stock of the new corporation, shall be distributed as shown in the following table:

Table of distribution.

	Payment, 30 per cent.	New preferred stock, 30 per cent.	New common stock, 100 per cent.	Wheeling & Lake Erie.		
				First preferred stock or trust certificates, 2.8 per cent.	Second preferred stock or trust certificates, 21 per cent.	Common stock or trust certificates, 39 per cent.
\$30,236,000 first mortgage bonds.	\$9,070,800	\$9,070,800	\$30,236,000	\$846,608	\$6,349,560	\$11,792,040
Balance for reorganization purposes or in treasury .....		29,200	264,000	892	74,240	77,960
Total .....		9,100,000	30,500,000	847,500	6,423,800	11,870,000



The depositors of each \$1,000 first-mortgage bonds upon making a cash payment of \$300 will accordingly receive under the reorganization plan—

(1) New preferred stock.....	\$300
(2) New common stock.....	1, 000
(3) First preferred Wheeling & Lake Erie stock.....	28
(4) Second preferred Wheeling & Lake Erie stock.....	210
(5) Common stock Wheeling & Lake Erie.....	390

The distribution of the Wheeling & Lake Erie stock carries with it the \$27 assessment levied upon the stockholders by the reorganization committee of the Wheeling & Lake Erie.

#### Capitalization.

Total new stock provided by the plan.....	\$39, 600, 000
Bonds and mortgages outstanding in the hands of the public undisturbed in reorganization (other than consolidated-mortgage bonds of the coal company to be canceled or acquired by the new company).....	5, 100, 868

Total bonds, mortgages, and stock outstanding in the hands of the public after reorganization (including any new stock not used for reorganization purposes).....	44, 700, 868
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Present capitalization.....	91, 260, 345
Decrease in capitalization.....	46, 559, 477

#### Fixed charges:

Prior to reorganization.....	2, 783, 252
Upon reorganization.....	261, 103

Decrease in fixed charges.....	2, 522, 149
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In the early part of April, 1917, the Pittsburgh & West Virginia Railway Co. took over the properties of the Wabash-Pittsburgh Terminal Co. The reorganization plan as above outlined converted a \$50,000,000 funded debt into a \$30,000,000 stock issue and wiped out the \$20,000,000 of second-mortgage bonds and \$10,000,000 of common stock. The new company issued \$9,200,000 of preferred stock to obtain funds to discharge the receiver's certificates and pay other indebtedness of the Wabash-Pittsburgh Terminal Railway Co. Pittsburgh & West Virginia is at this time paying dividends upon its 6 per cent preferred stock.

In its issue of June 15, 1917, the Wall Street Journal calls attention to the activity in the stocks of Pittsburgh & West Virginia Railway. It was then rumored that some of the eastern trunk lines were contemplating the purchase of the Pittsburgh & West Virginia Railway's properties. Among the prospective purchasers were the Pennsylvania, the Erie, the New York Central, Baltimore & Ohio, and the Western Maryland. The last-named road is looked upon as the logical purchaser of the 60-mile line of the Pittsburgh & West Virginia. The Rockefeller interests control both the Western Maryland and the Wheeling & Lake Erie. They have also made a trackage agreement with the Nickel Plate, which enters Chicago. The 60-mile line of the Pittsburgh & West Virginia is the only uncompleted link in the Rockefeller roads to Chicago.

Pittsburgh & West Virginia owns and controls large soft-coal deposits. It is thought that ultimately one or another of the large trunk lines will purchase the Pittsburgh & West Virginia properties to secure this independent source of fuel supply as well as an entrance into Pittsburgh.

#### RECEIVERSHIP OF WABASH RAILROAD CO.

Wabash Railroad Co. was organized in 1889 under the laws of Michigan, Ohio, Indiana, Illinois, and Missouri by agreement of consolidation between the Toledo Western Railroad Co., the Detroit & State Line Wabash Railroad Co., the Wabash Eastern Railway Co. of Indiana, the Wabash Eastern Railway Co. of Illinois, the Wabash Western Railway Co., companies organized to acquire the properties originally comprised in the Wabash, St. Louis & Pacific Railway, sold under foreclosure. Various extensions have been made to the original mileage, the Detroit-Chicago line being completed in May, 1893; the Detroit-Buffalo line in June, 1897; and the St. Louis-Des Moines line in November, 1899. The Detroit-Buffalo line is owned by the Grand Trunk Railway Co., of

Canada, but is jointly used by the Wabash Co. In April, 1901, the Kansas City, Excelsior Springs & Northern Railway was absorbed by the Wabash, as was the Omaha & St. Louis Railroad, extending from Council Bluffs, Iowa, to Pattonsburg, Mo., 144 miles.

In 1902 the property of the Boone County & Booneville Railroad was acquired by the Wabash.

The Wabash Railroad Co. owns the entire \$10,000,000 of capital stock of the Wabash-Pittsburgh Terminal Railway Co., which in turn controls, through stock ownership, the Wheeling & Lake Erie Railroad and the Pittsburg Terminal Railroad & Coal Co.

The receivership of the Wabash-Pittsburg Terminal Railway Co. and the Wheeling & Lake Erie will be covered in another section of this report.

On June 30, 1916, the Wabash owned and operated mileage as follows:

#### LINES EAST OF MISSISSIPPI RIVER.

Lines owned:	Miles.
Toledo, Ohio, to Tilton	252.4
Chicago & Western Indiana Junction to Effingham, Ill.	204.7
Montpelier, Ohio, to Clark Junction, Ind.	149.5
Decatur to Aladdin, Ill.	136.9
Decatur, Ill., to East St. Louis freight house	110.0
Delray, Mich., to Montpelier, Ohio	92.4
Tilton to Decatur Depot, Ill.	71.2
Maumee to Montpelier, Ohio	49.6
Bluffs to Camp Point, Ill.	39.8
Clayton to Elvaston, Ill.	34.5
Fairbury to Streator, Ill.	30.9
Butler to New Haven, Ind.	25.7
Montpelier to Butler, Ind.	17.5
Other short lines and branches	38.6
	<hr/> 1,253.7

#### Leased lines:

Louisiana & Pike County R. R., Maysville to Pittsfield	6.2
Hannibal Bridge Co., Aladdin, Ill., to Hannibal, Mo.	2.9
	<hr/> 9.1

#### Trackage rights:

Ann Arbor R. R.: Toledo to Milan, Ohio	30.9
Chicago, Burlington & Quincy R. R.: Camp Point to Junction, Quincy, Ill.	22.7
Baltimore & Ohio Chicago Terminal R. R.: Clark Junction to Indiana-Illinois line	5.8
Chicago & Western Indiana R. R.: Indiana-Illinois line, Chicago	19.8
Chicago, Burlington & Quincy R. R.: East Hannibal to Quincy, Ill.	16.2
Other trackage	26.1
	<hr/> 121.5

#### LINES WEST OF MISSISSIPPI RIVER.

##### Lines owned:

St. Louis to Harlem, Mo.	274.1
Pattonsburg, Mo., to Council Bluffs, Iowa	143.7
Moberly, Mo., to Ottumwa, Iowa	131.3
Albia to Chesterfield, Iowa	65.8
Brunswick to Chillicothe, Mo.	38.3
Moulton Junction to Albia, Iowa	28.3
Centralia to Columbia, Mo.	21.0
Salisbury to Glasgow, Mo.	15.4
Other short lines	20.8
St. Louis, Council Bluffs & Omaha R. R.: Chillicothe to Pattonsburg	41.4
	<hr/> 780.1

##### Trackage rights:

Missouri, Kansas & Texas Ry.: Moberly to Hannibal, Mo.	69.7
Other short trackages	8.4
	<hr/> 78.1
	<hr/> 858.2

## LINES EAST OF DETROIT RIVER.

Traction rights:	Miles.
Grand Trunk Ry.: Detroit, Mich. to Black Rock, N. Y.	228. 2
Welland Junction to Suspension Bridge	18. 0
Erie R. R.: Suspension Bridge to Buffalo, N. Y.	56. 6
Black Rock to International Junction, N. Y.	4. 8
	<hr/> 276. 6
Total operated	<hr/> 2, 519. 1

NOTE.—The above does not include 6.83 miles of main track and 0.29 miles of side track; total, 7.12 miles, owned, between Edwardsville Junction and Edwardsville Crossing, leased to the Illinois Terminal Railroad Co., also 6.39 miles of main track, Edwardsville Crossing to Alton, and 2.27 miles of main track, Illinois Terminal Junction to Cotlers; total, 8.66 miles, owned by Illinois Terminal Railroad Co., and operated jointly.

Second track operated, 530.72 miles; side tracks operated, 1,184; total all tracks operated, 4,233.78 miles.

Under contract, these lines of the Great Trunk Railway of Canada are used jointly with the Wabash Railway Co. The rental under this contract is \$275,000 per annum. The Wabash Railway Co. is also required to pay its proportion of the cost of maintenance and operation.

The mileage operated by the Wabash is located in the following States:

	Miles.
Michigan	105. 60
Ohio	170. 22
Indiana	357. 46
Illinois	744. 46
Missouri	655. 16
Iowa	208. 96
New York	31. 20
Nebraska	. 60
Canada	245. 40
Total	<hr/> 2, 519. 06

Herewith is a map showing the location of the Wabash lines.

On December 18, 1911, F. A. Delano, Edward B. Pryor, and William K. Bixby were appointed receivers and authorized to take possession of the Wabash properties. The receivers were appointed in response to a petition filed by the Westinghouse Air Brake Co., who attempted to recover an indebtedness of \$18,000. Delano resigned on December 23, 1913, and Bixby on February 27, 1914, leaving E. B. Pryor sole receiver. On February 11, 1915, Edward F. Kearney, president of the Texas & Pacific Railway, was appointed coreceiver by Judge Adams of the United States Circuit Court in St. Louis.

F. A. Delano, president of the Wabash, in his 1905-6 annual report to the stockholders, refers to the financial situation of the Wabash in these words:

"Competitive lines, great systems to the north and south of your property, have had the benefit of large and continued capital expenditures, while the Wabash Co., with its debenture mortgage as an obstruction to every important source of new capital, has been seriously handicapped in this respect, restricted, as it has been to its surplus earnings as its almost exclusive capital fund and with this fund limited in its application by the provision of the mortgage."

Reference will hereafter be made to the provision of the debenture mortgage to which President Delano refers.

In his report for the year ending June 30, 1907, President Delano says:

"Following the lead of Ohio, the Legislatures of Indiana, Illinois, and Missouri have during the year enacted laws limiting the passenger rate to 2 cents per mile. If these laws remain in force, they will seriously affect the company's passenger revenues.

"Trolley competition has also seriously affected the passenger business.

"The general financial conditions of the country have been such that it has been found impossible to dispose of any of the first refunding and extension 4 per cent bonds at an advantageous price."

In his report for the year ending June 30, 1908, President Delano calls attention to the large decrease in revenues, resulting from the financial depression; to the fact that the entire mileage of the road is subject to the 2-cent passenger law; that the number of passengers carried increased 10 per cent, while the revenue decreased 7 per cent; and that because of the continued financial depression the company has not been able to sell any of its first refunding and extension 4 per cent bonds.



In its issue of November 4, 1905 (vol. 81, p. 1347), the Commercial and Financial Chronicle in an editorial comments upon the Wabash situation in these words:

"A study of the Wabash annual report (1905-6) shows that the situation of this property is what it has always been since the reorganization 16 years ago. The geographical location of the system is excellent, and everything has been done to develop traffic. Gross earnings, as a consequence, have been steadily increasing, but, unfortunately, available net earnings have not increased in the same proportionate way—in fact, have not grown at all.

"This following from the financial restrictions under which the company has labored and which makes it necessary to charge all outlays for improvements, however exceptional their nature, to operating expenses or against net income. It is difficult to see, too, how this state of things is to be changed so long as the company remains financially hedged about as at present. The truth is there was a lack of adequate provision for the future at the time of the reorganization." (Company reorganized in 1889.)

In its issue of October 7, 1911 (vol. 93, p. 938), the Commercial and Financial Chronicle says in regard to the Wabash:

"The property is well maintained, and if cash were available it might increase its earnings materially by improvements. The Wabash, with its short lines between St. Louis and Kansas City, St. Louis and Omaha, St. Louis and Chicago, St. Louis and Detroit, and Chicago to Detroit, lags behind its competitors, both in volume of business and in cost of transacting its business, because it has not the proper facilities. The difficulty is a financial one and has been beyond the power of the management to remedy."

In its issue of November 3, 1911 (vol. 51, p. 873), the Railway Age Gazette in an editorial comment on the 1910-11 annual report of the Wabash says in part:

"The fact is that, as time goes on, the results of operation of the property only tend to show more strongly that the operating management is making an uphill fight against dishearteningly difficult financial restrictions imposed by financial mismanagement in the past; and, to add to its own financial difficulty, the Wabash is still involved in the difficulties of the Wheeling & Lake Erie and the Wabash-Pittsburg Terminal Railway Co.—difficulties which were imposed by the ill-fated attempt to gain an entrance into Pittsburgh.

"On the balance sheet this year there is shown an asset, \$9,816,211. Wheeling & Lake Erie three-year notes, with interest thereon, which notes are guaranteed by the Wabash, and which fell due in 1908, but which the Wheeling & Lake Erie is unable to take up. As an offsetting liability, on the Wabash balance sheet, there is \$9,808,000 obligations to bankers in connection with the Wheeling & Lake Erie notes.

"Here certainly is presented a financial problem of a road which in the best interest of the shipping and traffic public should be maintained and improved to the fullest extent, a problem which might well form a special study for the Hadley Securities Commission before any rigid law were recommended for the regulation and restriction of the issuance of railway securities. This study might be of equal profit, both as to the mistakes in the past and as showing what problems must be solved for the future."

In its issue of December 22, 1911 (vol. 51, p. 1262), the Railway Age Gazette, in an editorial referring to the Wabash, says in part:

"That the Wabash should have been operated in such a way as to keep it out of the hands of a receiver for so long is a fact that its operating management may well be proud of. Apparently the receivership has been inevitable ever since 1908, but in the meantime, without anywhere nearly adequate additional capital, the road has earned its fixed charges. \* \* \*

"The burden of the receivership will have to be borne by the investors who have put their money into its securities, and that is exactly where the burden belongs.

"The present operating management of the road is not responsible for the financial mistakes. The mistakes which have led to the present receivership have been commented on before in these columns. They may be summed up by saying that the credit of the Wabash, already a company capitalized at a higher figure than its earning power warrants, was used to gain an entrance for the Gould roads into Pittsburgh and was exhausted at the very time at which the Wabash itself should have used the credit to pay for additions and betterments to its existing properties."

From the foregoing comments, and other information available, it appears that the receivership of the Wabash may be attributed to the following causes:

1. The debenture mortgage of 1899.
2. The first refunding and extension 4 per cent mortgage of 1906.
3. Use of Wabash credit by the Gould interests to gain an entrance into Pittsburgh.
4. Adverse legislation.
5. Inadequate facilities to meet competition.

We have heretofore referred to the enactment of the 2-cent passenger-rate laws by all of the States in which the Wabash operates, and reference has also been made to the inadequate facilities of the Wabash to effectively compete with the lines operating in the same territory. The Wabash Railroad Co. was organized in 1889. The reorganization plan under which it organized called for the issue of first mortgage bonds, second mortgage bonds, and debenture mortgage bonds. The payment of these bonds was secured by liens covering the Wabash properties, the debenture bonds being a third lien upon the properties.

The debenture mortgage provided for an issue of \$3,500,000 of 6 per cent series A and \$26,500,000 6 per cent series B bonds. The interest on the debentures was payable only in the event that it was earned. The interest was noncumulative. The series A debentures were callable at par within five years from the date of issue. No provision was made to call the series B debentures. The debenture holders were given the right to vote at stockholders' meetings and the full right to nominate one-half of the highest even number of directors.

So far as this report is concerned, the important provision of the debenture mortgage is that relating to the determination of the net income available to pay interest. Article 3, providing that the net income shall be ascertained by the board of directors, reads in part as follows:

"Such amount (net income) shall be ascertained by deducting from the gross earnings of said company all current expenses for operating said roads and railroad, and such sum as in the judgment of the said board of directors may be necessary to maintain and renew said road and its equipment and appurtenances, and to keep the same in good condition, and to increase its equipment to such extent as may be commensurate with its business requirements, and to pay taxes, rentals, interest, and sinking-fund installments accrued or to accrue on any and all mortgages existing on the properties hereby conveyed, and to satisfy all liens and charges thereon that are or may be prior in equity to this mortgage."

Before paying interest on the debentures or declaring any dividends, the board of directors deducted from the earnings such sums as they deemed necessary to invest in additions and betterments. As time passed on and no interest was paid on the series B debentures, the holders thereof became impatient and threatened the company with legal proceedings to determine whether or not the earnings of the company were properly applied. To the Wabash management it became obvious that the debenture mortgage was a very serious handicap. To relieve the company of it, as well as to provide for future financing, the stockholders in 1906 authorized the creation of a \$200,000,000 first refunding extension 4 per cent bond issue.

The primary and immediate object of the creation of the first refunding extension 4 per cent bond issue of 1906 was the refunding of the series A and series B debentures issued under the mortgage of July 1, 1889.

The company issued \$3,500,000 of series A and \$26,500,000 of series B debentures. The financial statement of the Wabash, dated May 1, 1915, shows that all of the series A debentures and all but \$1,256,000 of the series B debentures have been refunded or retired.

Under the plan of refunding, the holder of \$1,000 series A debentures received in exchange therefor (a) \$795 of first-refunding extension 4 per cent bonds, (b) \$580 of preferred stock, (c) \$580 of common stock.

The holders of each \$1,000 series B debentures received in exchange therefor (a) \$720 of first-refunding extension 4 per cent bonds, (b) \$520 preferred stock, (c) \$520 common stock. (See Commercial and Financial Chronicle, vol. 83, p. 1099.)

Speaking of the refunding of the debentures, President Delano in his report for 1908-9 says:

"The immediate effect of this arrangement has been, of course, to substitute a bond carrying a fixed charge for an income bond, and during the first two or three years of the operation of this plan it has put some additional burden

on the income of your company; but there can be no doubt that the ultimate effect of the plan will prove advantageous. Without it your company had no method of capitalizing additions and betterments to its property, and such additions and betterments could only be made to the very limited extent that the net earnings of the company would permit."

It was the hope and expectation of President Delano and others in charge of the Wabash affairs to use the first refunding and extension 4 per cent bonds to virtually refinance the system. The financial depression in 1907 and 1908, as well as the unfortunate attempt of the Wabash to gain an entrance into Pittsburgh, made the sale of the first refunding and extension 4 per cent bonds impossible. On May 1, 1915, \$40,600,000 of these bonds were outstanding. The major portion thereof were issued to refund debentures or as collateral, sold out upon the failure of the company to pay the indebtedness secured thereby.

In 1903 or 1904 the Gould interests, in control of the Wabash, organized the Pittsburgh-Toledo Syndicate for the purpose of gaining an entrance for the Wabash into Pittsburgh.

The plan contemplated the purchase of the Wheeling & Lake Erie and the construction of a 60-mile extension from Jewett, Ohio, on the Wheeling & Lake Erie into Pittsburgh. For this purpose members of the syndicate agreed to raise \$20,000,000. The syndicate constructed the 60-mile extension, and after its completion turned it over to the Wabash-Pittsburgh Terminal Railway Co. It also delivered to this company a controlling-stock interest in the Wheeling & Lake Erie. The entire stock issue of the Wabash-Pittsburgh Terminal Railway Co. (\$10,000,000) was delivered to the Wabash, which also acquired \$6,600,000 of the Terminal Co.'s first mortgage 4 per cent bonds for the sum of \$6,000,000. The funds necessary to acquire the bonds were obtained through the issue of a short-term note secured by the bonds purchased. Through these transactions the Wabash obtained control of the Wabash-Pittsburgh Terminal Railway Co., which in turn controlled the Wheeling & Lake Erie.

The increase in mileage operated from 1902 to 1915, the growth in operating revenue, and the advances in fixed charges of the Wabash are shown in the table on the following page.

### *Revenues and expenses.*

[Date from company's reports to its stockholders.]

Item.	1902	1903	1904	1905	1906
Miles of road operated.....	2,483	2,486	2,517	2,517	2,517
Operating revenues.....	\$19,053,493	\$21,140,831	\$23,023,626	\$24,696,600	\$25,015,279
Operating expenses.....	\$13,847,436	\$15,815,662	\$17,683,509	\$20,503,443	\$18,077,887
Net operating revenues.....	\$5,206,057	\$5,325,167	\$5,340,117	\$4,193,156	\$6,937,491
Operating ratio (per cent).....	72.68	74.81	76.81	83.02	72.27
Other income.....	\$418,155	\$531,428	\$641,347	\$875,262	\$1,231,845
Total income.....	\$5,624,212	\$5,856,595	\$5,981,465	\$5,068,418	\$8,169,336
Deductions:					
Taxes.....	627,930	664,703	750,159	826,624	915,909
Rentals and hire of equipment.....	805,326	898,518	964,438	883,624	947,960
Interest.....	2,964,757	3,034,513	3,092,423	3,468,572	3,787,651
Sinking and other reserve funds.....					
Discount on receiver's certificate.....					
Additions and miscellaneous.....	814,740	852,711	1,055,154	1,348,970	2,008,484
Total.....	5,212,753	5,450,445	5,862,174	6,527,790	7,660,004
Surplus.....	411,459	406,150	119,291	<sup>1</sup> 1,459,372	509,333
Dividends on series A debentures.....	210,000	210,000	105,000		
Dividends on series B debentures.....					
Balance.....	200,459	196,150	14,291	<sup>1</sup> 1,459,372	509,333

<sup>1</sup> Deficit.



*Revenues and expenses—Continued.*

Item.	1907	1908	1909	1910	1911
Miles of road operated.....	2,516	2,515	2,515	2,515	2,515
Operating revenues.....	\$27,432,473	\$25,740,474	\$25,868,033	\$28,886,055	\$29,884,037
Operating expenses.....	\$19,505,147	\$18,843,747	\$18,757,184	\$20,536,223	\$22,366,183
Net operating revenues.....	\$7,927,326	\$6,896,326	\$7,110,849	\$8,349,833	\$7,517,854
Operating ratio (per cent).....	71.10	73.21	72.51	71.23	74.91
Other income.....	\$942,528	\$878,504	\$1,137,445	\$721,166	\$690,123
Total income.....	\$8,869,854	\$7,774,830	\$8,248,294	\$9,070,999	\$8,207,977
Deductions:					
Taxes.....	883,551	727,470	809,637	851,324	920,872
Rentals and hire of equipment.....	918,472	1,469,609	1,582,486	2,294,747	2,521,980
Interest.....	4,001,636	4,058,351	4,291,612	5,173,563	4,895,034
Sinking and other reserve funds.....				62,340	61,260
Discount on receiver's certificate.....					
Additions and miscellaneous.....	2,119,530	932,534	983,818	143,306	212,252
Total.....	7,923,189	7,187,964	7,667,553	8,525,280	8,611,398
Surplus.....	936,665	586,866	580,741	545,719	4 403,421
Dividends on series A debentures.....	210,000	105,000	210,000		
Dividends on series B debentures.....	265,000	265,000	530,000		
Balance.....	461,665	216,866	1 159,259	545,719	4 403,421

Item.	1912 <sup>1</sup>	1913 <sup>2</sup>	1914 <sup>2</sup>	1915 <sup>2</sup>
Miles of road operated.....	2,515	2,515	2,515	2,519
Operating revenues.....	\$28,354,764	\$31,769,286	\$30,022,495	\$29,082,788
Operating expenses.....	\$23,150,484	\$24,693,489	\$24,403,833	\$23,178,837
Net operating revenues.....	\$5,204,280	\$7,075,797	\$5,618,662	\$5,903,951
Operating ratio (per cent).....	81.55	77.62	81.41	79.67
Other income.....	\$610,819	\$702,050	\$725,558	\$453,309
Total income.....	\$5,815,099	\$7,777,847	\$6,344,220	\$6,357,260
Deductions:				
Taxes.....	851,629	905,892	1,044,309	972,946
Rentals and hire of equipment.....	2,609,459	2,608,372	2,694,567	2,948,289
Interest.....	4,242,570	4,076,032	4,084,291	3 4,326,828
Sinking and other reserve funds.....	60,140	58,680	57,160	
Discount on receiver's certificate.....		18,750	229,535	166,922
Additions and miscellaneous.....	273,858	486,453	912,672	783,043
Total.....	8,037,656	8,154,179	9,023,134	9,198,028
Surplus.....	4 2,222,557	4 376,332	4 2,678,914	4 2,840,768
Dividends on series A debentures.....				
Dividends on series B debentures.....				
Balance.....	4 2,222,557	4 376,332	4 2,678,914	4 2,840,768

<sup>1</sup> Includes operation of receivers from Dec. 26, 1911, to June 30, 1912.<sup>2</sup> Company and receivers' accounts consolidated 1912-13; 1913-14; 1914-15.<sup>3</sup> Includes miscellaneous deductions. Interest on first refunding and extension 4's not included in income account for 1912, 1913, 1914, or 1915.<sup>4</sup> Deficit.

NOTE.—During 1907-8, \$779,360 and in 1908-9, \$383,160 interest on first refunding and extension 4's charged to profit and loss to which was credited \$328,550 in 1908 and \$411,091 in 1907, interest on debenture<sup>8</sup> earned by company. Total interest paid on debentures 1908, \$370,000 and \$475,000 in 1907. Had interest<sup>1</sup> been charged direct to income account surplus in 1907, \$489,596 and deficit in 1908, \$253,944.

The revenues and expenses per mile of road operated are shown in the following table:

*Revenues, expenses, and fixed charges per mile of road operated.*

[Data from Moody's Analyses of Investments.]

Years ended June 30—	Average miles operated.	Gross revenues.	Maintenance.			All other operating expenses.
			Way.	Equip-ment.	Total.	
1907.....	2,516	\$10,904	\$1,092	\$1,557	\$2,649	\$5,104
1908.....	2,515	10,234	1,085	1,731	2,816	4,676
1909.....	2,515	10,286	1,238	1,577	2,815	4,644
1910.....	2,515	11,486	1,432	1,637	3,069	5,097
1911.....	2,515	11,844	1,441	1,936	3,377	5,577
1912.....	2,515	11,276	1,547	2,113	3,660	5,446
1913.....	2,515	12,634	1,722	2,119	3,841	5,979
1914.....	2,515	11,937	1,602	2,243	3,845	5,859
1915.....	2,519	11,545	1,492	1,374	2,866	6,335
1916 <sup>2</sup> .....	2,519	13,778	1,521	2,135	3,656	5,776
10-year average.....	2,516	11,592	1,417	1,842	3,259	5,449

Years ended June 30—	Net operating revenues.	Total net income.	Taxes accrued.	Fixed charges.	Surplus over charges.	Dividends paid.
1907.....	\$3,151	\$3,525	\$351	\$2,193	\$981	\$188
1908.....	2,742	3,019	289	2,497	233	147
1909.....	2,827	3,205	322	2,653	230	294
1910.....	3,320	3,668	338	3,087	243	.....
1911.....	2,990	3,315	367	3,119	<sup>1</sup> 161	.....
1912.....	2,070	2,313	339	2,857	<sup>1</sup> 883	.....
1913.....	2,814	3,093	360	2,882	<sup>1</sup> 149	.....
1914.....	2,233	2,523	415	2,789	<sup>1</sup> 681	.....
1915.....	2,344	2,532	386	2,963	<sup>1</sup> 817	.....
1916 <sup>2</sup> .....	4,346	4,522	410	2,672	1,440	.....
10-year average.....	2,884	3,173	358	2,771	44	68

<sup>1</sup> Deficit.

<sup>2</sup> Figures for new Wabash Ry. Co.

It should be noted that the figures for 1916 represent the result of operation of the new Wabash Railway Co. We find that the fixed charges per mile of road operated were reduced from \$2,963 in 1915 to \$2,672 in 1916. This reduction was the direct result of putting into effect the reorganization plan outlined below.

As reported in the plan of reorganization, the capitalization of the Wabash on May 1, 1915, aggregated \$222,319,377. This capitalization consisted of the following:

Underlying bonds:

First mortgage bonds, 5 per cent, May, 1939.....	\$33,900,000
Second mortgage bonds, 5 per cent, February, 1939.....	14,000,000
Debenture mortgage bonds (unexchanged).....	1,256,000
First lien terminal bonds, 4 per cent, January, 1954.....	3,555,000
Toledo & Chicago Division bonds, 4 per cent, March, 1941.....	3,000,000
Detroit & Chicago extension bonds, 5 per cent, July, 1941.....	2,831,000
Omaha Division bonds, 3½ per cent, October, 1941.....	3,173,000
Des Moines Division bonds, 4 per cent, January, 1939.....	1,600,000
Kansas City, Excelsior Springs & Northern bonds, 4 per cent, January, 1928.....	100,000
Columbia & St. Louis bonds, 4 per cent, May, 1942.....	200,000
	<hr/> 63,615,000

Equipment obligations:

Receiver's equipment notes.....	\$1,545,000
Gold sinking-fund bonds.....	1,575,000
	<hr/> 3,120,000

Old equipment obligation fixed by decree of court (known as Compton judgment).....	\$950, 377
First refunding and extensions mortgage bonds:	
Principal of bonds.....	\$40, 600, 000
Coupons in default on the same.....	5, 684, 000
	46, 284, 000
Receiver's certificates.....	15, 950, 000
Preferred stock.....	39, 200, 000
Common stock.....	53, 200, 000
Total present fixed capitalization.....	222, 319, 377

Annual interest charge (inclusive of interest on outstanding receiver's certificates and on \$5,000,000 of first refunding and extensions mortgage bonds sold under 4½ per cent note trust agreement, but exclusive of interest on 4½ per cent notes)..... 5, 795, 278

In addition to the foregoing there are unsecured claims, arising from guaranties, indorsements, and otherwise, against the Wabash Railroad Co., the amount of which can not be immediately and accurately ascertained or stated.

The \$5,000,000 extended 4½ per cent gold notes due May 1, 1913, are not included in the foregoing statement of present capitalization, for the reason that the collateral securing the same has been sold under proceedings for the foreclosure of the note trust agreement, but the \$5,000,000 first refunding and extension mortgage bonds embraced in that collateral are included in the said statement of present capitalization.

The capitalization per mile of road of the Wabash is reported in Moody's Analyses of Investments, as follows:

*Capitalization per mile of road.*

(Data from Moody's Analyses of Investment.)

Years ended June 30—	Stock outstanding and per cent of whole.		Bonds outstanding and per cent of whole.		Rentals capitalized at 5 per cent.	Total gross capital.	Owned by company as per balance sheet.	Net capitalization.	Net income on net capitalization.
		P. ct.		P. ct.					Per cent.
1907.....	\$35,699	45	\$44,479	55	\$202	\$80,380	\$10,206	\$70,174	5
1908.....	36,125	43	46,937	57	203	83,265	10,636	72,629	4.2
1909.....	36,693	46	43,843	54		80,536	6,703	73,833	4.3
1910.....	37,239	45	45,278	55		82,517	9,109	73,408	5
1911.....	36,739	43	51,008	57		87,747	12,019	75,728	4.4
1912.....	36,739	41	46,620	56		83,359	4,132	79,227	3
1913.....	36,739	44	46,199	56		82,938	4,132	78,806	3.9
1914.....	36,739	43	49,381	57		86,120	6,746	79,374	3.2
1915.....	36,681	43	49,613	57	553	86,847	4,820	82,027	3.1
1916 <sup>1</sup> .....	54,973	67	26,562	33	552	82,087	4,831	77,256	5.9
10 years' average.	38,437	46	44,992	54	151	83,580	7,333	76,247	4.2

<sup>1</sup> Capitalization of Wabash Railway Co. (the new company). It is to be noted that the total capitalization is still high, but that of the total, 67 per cent represents stock and 33 per cent bonds.

Attention is called to the capitalization per mile as shown in the foregoing table for the year 1915, as compared with the year 1916. In 1915 the stock outstanding represented 43 per cent of the total capitalization, and in 1916, 67 per cent, whereas the bonds in 1915 represented 57 per cent of the total capitalization and in 1916, 35 per cent. The proportionate increase in the stock and the proportionate decrease in the bonds outstanding on June 30, 1916, as compared with June 30, 1915, was caused by putting into effect the reorganization plan outlined below.

The reorganization committee estimated the cash requirement of the new Wabash at \$27,720,000. It was intended to raise the \$27,720,000 by an assessment of \$30 per share on the holders of preferred and common stock. The reorganization plan required that the holders of first refunding and extension mortgage bonds assenting to the plan should agree to pay the difference between the \$27,720,000 and the amount paid into the treasury of the new company by the stockholders. The maximum obligation of a bondholder in case no assessments were paid by the stockholders amounted to \$682.76 per \$1,000 bond. In exchange for such payment the bondholder received (1) \$1,137.93 par value of



profit-sharing stock A; (2) \$1,200 par value of convertible preferred stock B; (3) \$1,072.41 par value of common stock.

The bondholders were also to receive in cash the face amount of the coupon due January 1, 1912, together with interest thereon at the rate of 6 per cent. Bondholders who had previously received the face amount of this coupon were released from the obligation to repay the amount so received.

Inasmuch as the stock of the Wabash at the time of reorganization was selling for less than \$30 per share, the stockholders found it to their advantage not to pay the assessment. If they desired stock of the new company, it was cheaper for them to purchase it in the open market. As a result of this condition practically all of the \$27,720,000 had to be paid by the holders of first refunding and extension bonds.

The reorganization plan left outstanding and undisturbed obligations in the amount of \$65,158,000, consisting of (a) underlying bonds, \$62,302,000; (b) debenture mortgage bonds, \$315,000; (c) equipment obligation, \$2,541,000.

The reorganization plan provided for the issue of new securities as follows:

1. Five per cent profit-sharing preferred stock A, \$46,200,000.
2. Five per cent convertible preferred stock B, \$48,720,000.
3. Common stock, \$43,540,000.
4. Four per cent gold notes due not later than May 1, 1920, \$1,500,000.

The 5 per cent profit-sharing preferred stock A is entitled to receive preferential dividends, such dividends, however, being noncumulative. This stock may be redeemed at the option of the new company, at any time after five years from the date of its issue, at 110.

The convertible preferred stock B is entitled to receive preferential dividends in each fiscal year up to the amount of 5 per cent, after payment of the full 5 per cent dividend on the profit-sharing preferred stock A. Such dividends shall be noncumulative. The holders of the convertible preferred stock may, at any time after August 1, 1918, and up to 30 days prior to any date fixed for the redemption of the entire issue of the profit-sharing preferred stock A, convert the same into and exchange the same for profit-sharing preferred stock A and common stock of the new company at the rate of \$50 par value of profit-sharing preferred stock and \$50 par value of common stock for each \$100 par value of convertible preferred stock. The convertible preferred stock may be redeemed at 110 at any time after five years of the date of its issue.

The \$1,500,000 of 4 per cent gold notes, due not later than May 1, 1920, is secured by 2,400 shares of the stock of the Belt Railway Co. of Chicago and 1,217 shares of the stock of the American Refrigerator Transit Co.

In addition to the issue of the foregoing securities, there may be issued additional stock, not exceeding \$5,000,000 par value, to settle the claims of unsecured creditors.

The stock of the new company and the 4 per cent gold notes are to be distributed as follows:

Five per cent profit-sharing preferred stock A, to holders of the preferred stock and common stock of the existing Wabash Co., upon making the payments in cash of 30 per cent of the par value of their holdings and surrender of stock.....	\$46, 200, 000
Five per cent convertible preferred stock B, to holders of first refunding and extensions mortgage bonds assenting to the plan and thereby assuming the obligations provided for in Paragraph VII of the plan for the principal amount of their bonds and defaulted coupons thereon (aggregating, as of July 1, 1915, 14 per cent, exclusive of the coupon of Jan. 1, 1912, payable in cash, with interest as hereinafter stated), 120 per cent of such principal amount of their bonds.....	48, 720, 000
Common stock, to holders of the preferred stock and common stock of the existing Wabash Co., upon making the payments hereinbefore mentioned.....	43, 540, 000
Four per cent gold notes, to be issued pursuant to the agreement with the committee representing the extended 4½ per cent gold notes, as above provided.....	1, 500, 000
Total new securities.....	139, 960, 000

NOTE.—Under Paragraph VII, holders of the first refunding and extension mortgage bonds assenting to plan agree to pay the difference between the \$27,720,000 cash required and the amount paid in by the stockholders under the \$30 per share assessment.

*Schedule of distribution to security holders participating in the plan.*

Existing securities.	Profit sharing preferred stock A.		Convertible preferred stock B.		Common stock.	
	Per cent.	Amount.	Per cent.	Amount.	Per cent.	Amount.
\$40,600,000 first refunding and extension mortgage bonds, with all matured and unpaid coupons, except the coupon of Jan. 1, 1912 (which will be paid to assenting holders in cash, with interest) assuming the obligations provided for in paragraph VII of the plan.			120	\$48,720,000		
\$39,200,000 preferred stock, upon payment of 30 per cent of the par value and surrender of stock.	50	\$19,600,000			50	\$19,600,000
\$53,200,000 common stock, upon payment of 30 per cent of the par value and surrender of stock.	50	26,600,000			45	23,940,000
Total		46,200,000		48,720,000		43,540,000

The table on a preceding page shows the capitalization of the Wabash on May 1, 1915, as aggregating \$222,319,377. Under the reorganization plan the total capitalization of the new company aggregates \$205,118,000. The decrease in the capitalization amounts to \$17,201,377. The total stock outstanding of the old Wabash amounted to \$92,400,000, as compared with \$138,460,000 of the new company. Fixed interest-bearing obligations were reduced from \$124,235,000 to \$66,658,000. The reduction in the fixed interest-bearing obligations was brought about by converting \$40,600,000 of first refunding and extension mortgage bonds into stock and by the payment of receiver's certificates aggregating approximately \$16,000,000. The fixed charges prior to reorganization amounted to \$5,795,278; after reorganization, as per plan, \$3,183,915, being a decrease of \$2,611,363.

## REORGANIZATION OF WESTERN MARYLAND RAILWAY CO.

The appointment of a receiver in 1908, the foreclosure sale in 1909, and a voluntary reorganization in 1916 is indicative that financial difficulties have been encountered by the Western Maryland.

In 1905 Western Maryland operated 544 miles of road. The line extended from Baltimore, via Hagerstown and Cumberland, Md., to West Virginia coal fields. Subsequently, as will appear hereafter, an extension was built from Cumberland to Connellsville, Pa. In 1916 the company operated 676 miles. Prior to 1900 and for some years thereafter the road was owned by Baltimore capitalists. In 1906 the Gould and Rockefeller interests secured control. It was then planned to use the Western Maryland as the Atlantic seaboard outlet for the Gould system. By the construction of 100 miles of road it could have been connected with the Wheeling & Lake Erie. In 1908 several of the Gould lines, including the Western Maryland, were placed under the control of receivers. The Railway Age Gazette attributes receivership of Western Maryland in 1908 to the lack of working capital and the uncertainty of the interpretation of the commodity clause of the Hepburn Act.

At this time Western Maryland owned extensive coal fields in West Virginia. It appears that the earnings of the company in 1908 were sufficient to pay fixed charges, but were not adequate to pay maturing debt amounting to \$3,776,750 due April 1, 1909. In 1909 the property was sold at foreclosure sale to a committee representing the general-lien and convertible bondholders for \$6,951,950, subject to \$50,951,950 indebtedness.

The 1909 reorganization plan in contrast with the former capitalization shows the following:

## (a) Capitalization prior to foreclosure sale, 1909:

Bonds and guaranteed stock in default	\$50,951,950
General-lien and convertible bonds in default, including interest	10,836,000
Receiver's obligations	4,492,846
Notes, accounts, and claims admitted	2,269,451

## (b) Capitalization of new company:

Bonds and guaranteed stock remaining undisturbed.....	50,951,950
Noncumulative 4 per cent preferred stock.....	10,000,000
Common stock to be issued.....	23,959,560
Cash requirements in 1909.....	8,274,160
Reorganization and improvements about.....	1,511,863
Receiver's certificates.....	4,492,846
Notes, accounts, and claims admitted.....	2,269,451

The cash required, \$8,274,160, was to be raised by the sale of \$20,685,400 of common stock. This stock was purchased by Blair & Co. and offered to depositors under the plan on the following basis:

- (a) To holders of certificates of deposit for \$10,000,000 general-lien convertible bonds, 50 per cent of their holdings, i. e., \$5,000,000 for 40 per cent of its par value, or----- \$2,000,000
- (b) To holders of \$15,685,400 stock in exchange for their old stock and on the payment of 40 per cent of the par value thereof in cash, 100 per cent of their holdings, i. e., common stock, for-- 6,274,160

Common stock in the amount of \$826,000 was also issued to refund a like amount of overdue interest on the \$10,000,000 general-lien convertible bonds and \$2,438,160 of common stock was issued for reorganization purposes.

The 4 per cent noncumulative preferred stock was issued in exchange for the \$10,000,000 general-lien convertible bonds.

The fixed charges of the new company in 1909 were estimated at \$2,184,598, or \$733,057 less than the fixed charges prior to reorganization. (Commercial and Financial Chronicle, vol. 89, p. 287.)

In regard to the 1909 reorganization, the Railway Age Gazette in an editorial (vol. 58, p. 173) says in effect:

"The capitalization of the reorganized company was still high for a road which could depend only upon the development of local traffic and on the coal traffic in a highly competitive territory."

The plan of reorganization called for the issue of \$33,959,560 stock and approximately \$50,951,950 of bonds outstanding. This, on the owned and leased lines as in 1907, was at the rate of \$94,000 of bonds and \$63,000 of stock per mile. The fixed charges of \$2,184,598 represent about \$4,000 per mile.

Through the process of reorganization the Gould interests were apparently wiped out and the Rockefeller interests obtained control of the Western Maryland. The line was without a western connection. To obtain this a traffic agreement was entered into with the Pittsburgh & Lake Erie, a subsidiary of the New York Central. In order to reap the benefit of this traffic agreement Western Maryland found it necessary to construct an 87-mile extension from Cumberland, Md., to Connellsville, Pa., the southeastern terminus of the Pittsburgh & Lake Erie. The proposed extension was across the Allegheny Mountains and called for estimated expenditures of from \$75,000 to \$100,000 per mile. In spite of this heavy expenditure, the plans of the Western Maryland were looked upon as a signal achievement inasmuch as they gave the road an entrance into Pittsburgh and the New York Central a direct line to Baltimore. It was estimated that the construction of the Connellsville extension would increase the gross operating revenues of Western Maryland from \$7,500,000 to \$12,000,000. These estimates have since proven to be too large. The extension was placed in operation in 1913. In 1914 the gross operating revenues were \$8,265,000; in 1915, \$8,683,000; and in 1916, \$10,930,000.

The construction of the Connellsville extension, together with the acquisition and development of terminal properties which it was deemed necessary to acquire in view of the traffic agreement with the Pittsburgh & Lake Erie, have proved an unbearable burden to Western Maryland. In 1909, after the reorganization, the Western Maryland had stock and bonds outstanding in the amount of approximately \$85,000,000.

In December, 1916, liabilities of the company were reported in excess of \$145,000,000, representing an increase of \$60,000,000. The increase in capitalization is shown by the following:



	After reorganization, 1909.	June 30, 1916.
Common stock.....	\$23,959,560	\$49,429,198
Preferred stock.....	10,000,000	10,000,000
First-mortgage bonds.....	42,518,000	46,624,000
Divisional bonds.....	6,200,000	2,038,000
Guaranteed stock.....	574,650	28,000
Bonds of leased lines.....	1,659,300	2,232,300
Equipment notes.....		2,657,138
Secured gold notes.....		10,000,000
One-year notes.....		3,000,000
Loans and bills payable.....		4,985,000
Other working capital liabilities.....		4,079,614
Total.....	84,911,510	135,073,250

The liabilities as of June 30, 1916, do not take into account the \$3,000,000 note indebtedness referred to in the present reorganization plan nor the \$6,500,000 equipment trust notes issued in December, 1916, to acquire 5,000 freight cars.

On March 31, 1910, the common and preferred stockholders of record April 5 were given an option to purchase the unissued \$25,469,670 of common stock at \$50 per share. Each stockholder was permitted to purchase common stock in an amount not exceeding 75 per cent of his holding.

According to the Railway Age Gazette the proceeds obtained from the sale of this stock were used to build the Connellsville extension, the immediate construction of which was undertaken by the Connellsville & State Line Railway Co. and Georges Creek & Cumberland Railroad Co., both proprietary companies of the Western Maryland. Western Maryland owns the entire \$3,000,000 capital stock of the Connellsville & State Line Railway and the entire \$3,500,000 capital stock of Georges Creek & Cumberland Railroad.

Under a trust agreement dated January 1, 1912, Western Maryland issued \$10,000,000 three-year 5 per cent secured gold notes. Subsequently the company issued unsecured notes, which on December 14, 1914 (Commercial and Financial Chronicle, vol. 100, p. 56), aggregated \$16,000,000. The \$16,000,000 of notes were sold primarily for the completion and equipment of the Connellsville extension, additional shop facilities, yards, terminals, equipment, and other improvements. The \$16,000,000 of notes matured on July 1, 1915. Interest on the notes was defaulted on January 1, 1915. A note-holders' committee was appointed, which issued a circular asking the note holders to deposit their notes with the Bankers' Trust Co. It appears that notes largely in excess of a majority are owned by members of the board of directors and the larger stockholders, who since 1914 have been carrying the property and thus avoiding the appointment of a receiver. The note-holders' committee has since 1914 been engaged in working out a financial plan looking to the general readjustment of the financial setup of Western Maryland. On October 27, 1916, Carl R. Gray, president, submitted a reorganization plan to the stockholders of Western Maryland. The report indicates that the plan has been unanimously approved by the stockholders.

To quote from this plan:

"For some time past the management has had in consideration plans for the readjustment of the company's financial structure so as to provide moneys for the discharge of its matured indebtedness and capital currency for its future needs.

"Matured note indebtedness of the company is outstanding in the principal amount of \$16,000,000 upon which there is approximately \$2,000,000 of accrued interest, and the company has also borrowed from the Western Maryland note-holders' committee further sums aggregating \$3,250,000, making a total indebtedness of \$21,250,000, for which provision must be made."

In considering plans of financial readjustment it has seemed indispensable to provide for a substantial reduction of present fixed charges which exceeded per mile of road those of any other road of a similar character located in competi-

tive territory and to care for the full recognition of the legal rights of the note holders. The reorganization plan provides for the following capitalization:

Common stock	\$50,000,000
First preferred 7 per cent cumulative	18,000,000
Second preferred 4 per cent noncumulative stock	10,000,000
First and refunding bonds	150,000,000

The first and refunding bonds are appropriated for the following purposes:

To retire underlying bonds	\$50,000,000
For general corporate purposes	7,500,000
For acquisition and improvement of terminals	25,000,000
For extensions, equipment, additions, and betterments	67,500,000

Of the \$7,500,000 of bonds set aside for general corporate purposes, \$5,000,000 are to be issued forthwith in order to obtain funds to liquidate loans aggregating \$3,250,000 and to furnish working capital.

The newly organized company would have outstanding:

Common stock	\$50,000,000
First preferred 7 per cent cumulative stock	18,000,000
Second preferred 4 per cent noncumulative stock	10,000,000
Underlying bonds	117,000
First and refunding bonds	5,000,000

The reorganization plan also contemplates distribution of \$3,960,000 of stock of the Davis Coal & Coke Co. and \$4,500,000 of stock of Monongalia Coal Lands Co.

Holders of the outstanding common and first preferred stock were asked to exchange their holdings, share for share, for second preferred and common stock of the new company. In addition, they will be offered an opportunity to subscribe for new first preferred 7 per cent cumulative stock. For each \$100 subscription of first preferred the subscribers are to receive first preferred stock, \$100; stock of the Davis Coal & Coke Co., \$22; stock of Monongalia Coal Lands Co., \$25.

The proceeds obtained from the issue of \$18,000,000 of first preferred stock will be used to pay off outstanding notes long since overdue. The advantages of this plan are summarized as follows:

"Through the elimination of \$18,000,000 of indebtedness threatening the integrity of the property, not only is the fixed-charge capitalization of the company reduced to an amount believed to be fully within its maximum earning returns during the adverse periods but there is also preserved a mortgage capacity well adapted for use in connection with the future expansion and development of the system."

The increase in capitalization from \$85,000,000 in 1909 to \$135,000,00 on June 3, 1916, produces net results as follows:

### *Increase of capitalization.*

[Data from Moody's analyses of railroad investments.]

	1910	1911	1912	1913	1914	1915	1916
Average mileage operated.....	543	543	543	543	661	661	676
Extra main track.....	45	45	45	45	71	71	71
Locomotives owned.....	173	172	169	191	263	259	248
Passenger cars owned.....	135	134	133	152	152	138	125
Freight and company cars.....	7,478	7,388	7,290	8,601	9,479	9,107	10,682
Passenger density.....	94.685	100.672	98.040	101.660	82.351	74.159	70.258
Freight density.....	1,780,067	1,749,223	1,854,018	1,994,672	1,877,526	2,115,013	2,769,364
Stock per mile of road.....	\$109.446	\$109.446	\$109.446	\$109.446	\$89.908	\$89.908	\$87.913
Bonds per mile of road.....	\$90.547	\$90.550	\$101.976	\$113.791	\$94.667	\$94.371	\$95.637
Gross revenues per mile.....	\$13.042	\$13.261	\$13.339	\$14.057	\$12.508	\$13.136	\$16.169
Expenses per mile:							
Maintenance of way.....	\$1,399	\$1,580	\$1,832	\$2,129	\$2,403	\$1,822	\$1,878
Total maintenance.....	\$3,009	\$3,159	\$3,536	\$4,413	\$5,259	\$4,060	\$4,447
All other operating expenses.....	\$4,546	\$5,017	\$5,457	\$6,672	\$6,615	\$5,407	\$5,967
Net operating revenues.....	\$5,487	\$5,085	\$4,346	\$2,972	\$634	\$3,669	\$5,755
Total net income.....	\$6,647	\$6,132	\$4,909	\$3,251	\$1,018	\$4,206	\$6,323
Accrued taxes.....	\$398	\$422	\$464	\$442	\$398	\$463	\$516
Balance for charges.....	\$6,249	\$5,690	\$4,445	\$2,809	\$620	\$3,743	\$5,807
Fixed charges.....	\$4,428	\$4,289	\$4,400	\$5,294	\$4,729	\$5,117	\$5,009
Margin of safety, per cent.....	29	24	1				13
Surplus over charges.....	\$1,821	\$1,401	\$45	<sup>1</sup> \$2,485	<sup>1</sup> \$4,109	<sup>1</sup> \$1,374	\$798
Dividends paid.....	\$366	\$732	\$732				
Maintenance of equipment..	\$1,610	\$1,579	\$1,704	\$2,284	\$2,856	\$2,238	\$2,569

<sup>1</sup> Deficit.

The management during 1910, 1911, and 1912 was able to pay dividends only because of deferring maintenance. In March, 1914, Carl Gray was elected president. This from Railway Age Gazette (vol. 57, p. 88): "Previous to change in management Western Maryland has been making a very poor showing, and it now appears that even this poor showing was better than actual facts warranted."

President Gray at once proceeded to take care of the deferred maintenance. The expenditures for maintenance have been as follows:

	Ways and structures.	Equip- ment.
1916.....	\$1,269,245	\$1,736,704
1915.....	1,204,048	1,479,331
1914.....	1,588,476	1,887,555
1913.....	1,155,972	1,240,025
1912.....	994,543	925,479
1911.....	857,880	856,038

The total maintenance charges for 1914 show an increase of \$1,079,024 over 1913.

Of the gross revenues the following per cent was applied to operating expenses:

	Per cent.
1916.....	64.4
1915.....	72.1
1914.....	95.0
1913.....	78.8
1912.....	67.4
1911.....	61.6

The amount available for fixed charges other than taxes is shown by the following table:

Year.	Amount available.	Fixed charges.	Surplus.
1916.....	\$3,925,520	\$3,385,827	\$539,693
1915.....	2,474,267	3,382,172	1,907,905
1914.....	409,826	3,125,491	1,715,665
1913.....	1,525,498	2,874,896	1,349,398
1912.....	2,413,733	2,389,365	24,368
1911.....	3,027,222	2,266,886	760,336

<sup>1</sup> Deficit.

#### RECEIVERSHIP OF WESTERN PACIFIC RAILWAY CO.

Western Pacific Railway Co. was organized March 3, 1903. The properties of the company were placed in possession of Frank G. Drum and Warren Olney, jr., receivers, on March 5, 1915, and sold at foreclosure on June 28, 1916, to Franklin V. Spooner, Robert R. Pardow, and John C. Rued, representing the reorganization committee of the first-mortgage bondholders. Subsequent to the foreclosure sale the properties had been acquired by the Western Pacific Railroad Co.

We are here concerned primarily with the Western Pacific Railway Co., hereinafter referred to as the Western Pacific, and its reorganization.

The Gould interests, controlling the Denver & Rio Grande, caused the organization of the Western Pacific in 1903 to construct a line of railway from Salt Lake, Utah, to San Francisco, to give the Gould lines a Pacific coast outlet. The mileage of the Western Pacific from Salt Lake to San Francisco, including 3.48 miles across the bay of San Francisco, aggregates 946.38. The road was put on an operating basis on July 1, 1911. The losses of the Western Pacific have been reported as follows:

Year ending June 30—

1912.....	\$3,281,972.87
1913.....	3,388,454.21
1914.....	4,420,607.83
1915.....	3,249,988.98
1916.....	1,748,683.55



In arriving at the losses for 1915 and 1916 we have calculated 5 per cent bond interest accrued on \$50,000,000 first-mortgage and \$25,000,000 second-mortgage bonds.

The annual report on file with the Railroad Commission of the State of California for the year ended June 30, 1915, shows interest on funded debt amounting to \$3,113,435.53, while the annual report for the year ended June 30, 1916, shows no deduction whatever for interest accrued on funded debt. These two reports were filed by the receivers, who evidently, in preparing their financial statements, did not include interest accruals on funded debt.

The losses of the Western Pacific may be attributed to—

1. Excessive interest charges in comparison with the company's earnings and mileage operated.

2. Lack of feeders.

3. Necessity to accept rates of competing lines.

The excessive interest charges will become apparent after a mere casual examination of the income statement on another page, while the lack of feeders and the necessity of putting into effect rates charged by the Southern Pacific are common knowledge.

Reference has heretofore been made to the fact that the Western Pacific was constructed as the Pacific coast outlet for the Gould system of railways and in the interest of the Denver & Rio Grande. On June 30, 1916, the Denver & Rio Grande owned \$62,490,000 of the \$75,000,000 of outstanding stock of the Western Pacific. The Western Pacific owed the Denver & Rio Grande amounts as follows:

Second-mortgage bonds	\$25,000,000.00
Notes payable	17,923,369.56
Accounts payable	7,535,242.45
Total	50,458,612.01

To finance the construction of the Western Pacific, the Denver & Rio Grande guaranteed the payment of the interest on the \$50,000,000 first-mortgage bonds of the Western Pacific and also agreed to furnish the funds necessary to complete the line in the event that the proceeds obtained from the sale of the \$50,000,000 of first-mortgage bonds should prove inadequate. The proceeds from the sale of the first-mortgage bonds having proved inadequate to complete the line, a second-mortgage bond issue of \$25,000,000 was executed. These bonds were acquired by the Denver & Rio Grande in liquidation of advances made by it to the Western Pacific.

To and including September 1, 1914, Denver & Rio Grande advanced the necessary funds to pay the interest on Western Pacific first-mortgage bonds. Shortly before March 1, 1915, Denver & Rio Grande served notice that it would no longer perform the obligation assumed under its guaranty agreement. Their refusal meant disaster and receivership, with its subsequent reorganization of Western Pacific.

The annual reports on file with the Railroad Commission of the State of California show the revenues and expenses of the Western Pacific, as follows:

#### *Revenue and expenses.*

[Data from reports on file with Railroad Commission of California.]

Item.	1912	1913	1914	1915	1916.
Operating income.....	\$5,258,532.43	\$6,173,628.29	\$6,099,573.37	\$5,708,126.27	\$7,466,004.37
Operating expenses.....	4,229,864.55	4,478,835.06	4,995,891.64	4,419,936.53	4,787,891.90
Net operating revenue.....	1,028,667.88	1,694,793.23	1,103,681.73	1,288,189.74	2,678,112.47
Deficit from outside operations..	36,161.53	11,635.28	27,152.26		
Total net income.....	992,506.35	1,683,157.95	1,076,529.47	1,288,189.74	2,678,112.47
Taxes accrued.....	185,233.84	278,096.13	379,259.40	355,032.88	349,173.86
Operating income.....	807,272.51	1,405,061.82	697,270.07	933,156.86	2,328,938.61
Other income.....	19,355.78	50,035.35	47,310.57	54,123.75	92,253.86
Gross income.....	826,628.29	1,455,097.17	744,580.64	987,280.61	2,421,192.47

*Revenue and expenses—Continued.*

Item.	1912	1913	1914	1915	1916
<b>Deductions:</b>					
Interest on funded debt.....	\$3,748,245.97	\$3,752,281.25	\$3,752,774.98	\$3,113,435.53	(1)
Other interest.....	98,801.70	681,804.33	819,788.44	4,643.39	\$108.22
Rents payable.....	261,212.40	407,153.30	411,186.76	357,745.47	418,230.49
Miscellaneous.....	341.09	2,312.50	181,438.29	124,880.73	1,537.31
Total deductions.....	4,108,601.16	4,843,551.38	5,155,188.47	3,600,705.12	419,876.02
Deficit for year.....	3,281,972.87	3,388,454.21	4,420,607.83	2,613,424.51	2,001,316.45

<sup>1</sup> Interest not accrued subsequent to appointment of receivers Mar. 5, 1915.

<sup>2</sup> If company had accrued its bond and other interest during 1915-16, the deficit would have amounted to more than \$2,735,000.

The condition confronting the Western Pacific, at the close of the fiscal year, June 30, 1914, can best be presented by comparison with the Southern Pacific and Santa Fe, also operating in California.

	Western Pacific Ry. Co.	Southern Pacific Co.	Atchison, Topeka & Santa Fe Ry. Co.
Bonds per mile.....	\$79,541	\$60,669	\$28,712
Operating revenue per mile.....	6,493	12,149	10,186
Net operating revenue per mile.....	1,175	4,204	3,452
Interest, taxes, and other fixed charges per mile.....	5,877	3,695	1,800

The foregoing table shows that the interest, taxes, and other obligations of the Western Pacific amounted to \$5,877 per mile, and that its net operating revenue with which to make these payments amounted to only \$1,175 per mile.

Subsequent to the appointment of receivers the first-mortgage bondholders appointed a committee, which prepared a reorganization plan which became the basis for the organization of the Western Pacific Railroad Co. The reorganization committee found that the cash requirements of the new company amounted to \$18,600,000, consisting of—

(a) \$2,000,000 to pay the distributive shares of nonassenting bondholders, underwriting commission, expenses of foreclosure and reorganization, taxes on creation and issue of new securities, compensation and organization committees, fees for engineering, accounting and other experts, engraving, printing, and miscellaneous requirements.

(b) \$2,579,750 for betterments to existing roads.

(c) \$3,514,000 for the acquisition of new passenger and freight equipment by the new company.

(d) \$10,506,250 for the acquisition or construction of extensions and feeders, including payment of interest during construction.

The reorganization committee's plan provided that the \$18,600,000 of cash was to be raised as follows:

1. \$18,000,000 from the sale of \$20,000,000 of new bonds together with certain stock of the holding company.

2. \$600,000 from the operation of the road up to March 1, 1916.

The reorganization plan, which has been put in operation, provides for the organization of an operating and a holding company. The operating company is to issue:

1. \$47,500,000 par value of common stock.

2. \$27,500,000 par value of 6 per cent noncumulative preferred stock.

3. \$20,000,000 face value of first-mortgage 5 per cent 39-year bonds, dated March 1, 1916.

The holding company is to issue:

1. \$47,500,000 par value of common stock.

2. \$27,500,000 par value of 6 per cent noncumulative preferred stock.

The holding company in exchange for its common and preferred stock will acquire the common and preferred stock of the operating company. The securities to be issued to the public to consist of—

1. \$47,500,000 par value of common stock of holding company.

2. \$27,500,000 par value of preferred stock of holding company.

3. \$20,000,000 face value of first-mortgage bonds of the operating company.

The first-mortgage bondholders of the Western Pacific, who deposited their bonds under the reorganization plan, were given an option to purchase bonds of the new company at 90 in an amount equal to 40 per cent of the bonds deposited. In addition to the new bonds purchased and in exchange for the bonds deposited, the depositor received preferred stock of the holding company to an amount equal to 55 per cent of the face value of the deposited bonds and common stock equal to 95 per cent of the face value of deposited bonds. Under this option the depositor would surrender—

(a) Bonds of old company	\$1, 000
(b) Pay in cash	360
Total	1, 360

And in return the depositor received—

(a) New bonds	400
(b) Preferred stock of holding company	550
(c) Common stock of holding company	950
Total	1, 900

In the event that the first-mortgage bondholder did not purchase bonds of the new company, he was entitled to receive in exchange for every \$1,000 face value of bonds deposited stock of the holding company, as follows:

- (a) \$500 of preferred stock.
- (b) \$750 of the common stock.

Total, \$1,250.

An underwriting syndicate was organized, which agreed to purchase at 90 and accrued interest the entire \$20,000,000 of bonds to be issued by the new company, or such an amount as may not be purchased by first-mortgage bondholders of the old company. This syndicate, upon the payment of \$900 for each \$1,000 of bonds of the new company, was to receive:

- (a) \$1,000 face value of new first-mortgage bonds.
- (b) \$125 par value of preferred stock of holding company.
- (c) \$500 par value of common stock of holding company.

Total, \$1,625.

The capitalization of the old company and the new company, upon the completion of the reorganization contemplated in the plan, is shown by the following table:

Item.	Old company.	New company.
First mortgage bonds	\$50, 000, 000. 00	<sup>1</sup> \$20, 000, 000. 00
Second mortgage bonds	25, 000, 000. 00	
Unsecured debt due Denver & Rio Grande	26, 800, 000. 00	None.
Miscellaneous claims	163, 625. 54	None.
Common capital stock	75, 000, 000. 00	47, 500, 000. 00
Preferred capital stock		27, 500, 000. 00
6 per cent non-cumulative interest charges	3, 750, 000. 00	1, 000, 000. 00

<sup>1</sup> The operating company, when the proceeds of the new bonds have been expended, should possess physical properties, securities, and cash resources approximately of the value of \$17,500,000 in addition to the property possessed by the old company prior to receivership.

The reorganization of the Western Pacific has eliminated the \$75,000,000 of stock of the old company and made no provision for the payment of \$25,000,000 of second-mortgage bonds and \$26,800,000 floating indebtedness payable to Denver & Rio Grande. The total capitalization was reduced from \$150,000,000 to \$95,000,000, whereas the fixed interest charges were reduced from \$3,750,000 to \$1,000,000.

The cost of reorganizing the Western Pacific was considered in detail by the Railroad Commission of the State of California in its decision of July 12, 1916 (No. 3505), a copy of which is attached to this report. Particular reference is made to pages 4 to 9 of said decision.

As above stated, the Denver & Rio Grande Railroad Co. guaranteed the payment of interest on the first-mortgage bonds of the Western Pacific. Subsequent to the default of interest payment by the Western Pacific, attorneys for the Equitable Trust Co., trustee under the Western Pacific mortgage, brought an action against the Denver & Rio Grande to compel it to carry out the provisions of the so-called "Contract B" relating to the guaranty.



On May 18, 1917, Judge Learned Hand, in the United States District Court, in New York City, filed an opinion in favor of the Equitable Trust Co., trustee under Western Pacific mortgage, in which he held the Denver & Rio Grande Railroad Co. liable under its guarantee agreement. Under this decision the Denver & Rio Grande was liable for interest on Western Pacific first-mortgage bonds in the amount of approximately \$36,000,000. On June 26, the Denver & Rio Grande Railroad Co. appealed from the judgment of the United States Circuit Court of Appeals. Murray, Prentice & Howland, attorneys for the Equitable Trust Co., interpret the court's action as holding—

1. That the contract between the Denver & Rio Grande Railroad Co. and the Western Pacific, and the trustee for the Western Pacific bondholders under which the Denver & Rio Grande agreed to supply money for Western Pacific bond interest, was a contract whereby the Denver & Rio Grande entered into direct contractual obligations with the Western Pacific bondholders.

2. That the foreclosure of the Western Pacific mortgage, and the sale of the mortgaged property did not relieve the Denver & Rio Grande from its obligations under the contract, although the Western Pacific was thereby incapacitated from carrying out the contract upon its part, and the purchaser at foreclosure sale did not assume its obligations.

3. The trustee for the bondholders had a right to foreclose the Western Pacific mortgage for principal as well as interest, and that the acceleration of the maturity of the principal, and foreclosure therefor, did not operate to relieve the Denver & Rio Grande from its obligation to provide interest moneys.

4. That the Denver & Rio Grande deliberately and without justification repudiated the contract.

5. That the bondholders thereby became entitled to recover damages for the breach of the contract as a whole.

6. That the course pursued by the trustee and the majority bondholders in connection with the foreclosure was proper and did not entitle the Denver & Rio Grande to a revaluation of the mortgage security.

The court refused to decide the question whether a lien upon the Denver & Rio Grande property was created by the contract whereby that company agreed to pay interest on Western Pacific first-mortgage bonds. A decree was directed for the amount of the installment of interest to March 1, 1915, September 1, 1915, and March 1, 1906, less in each case the amount of earnings made by the Western Pacific or by its receiver, applicable in regular course to the payment of interest, and for the capital sum of \$32,272,274.45, together with interest upon the whole. It is estimated that the total amount of the judgment will amount to about \$36,000,000.

The decision of Judge Hand calls into question the financial status of the Denver & Rio Grande. Protective committees have been formed to receive deposits of the first and refunding 5 per cent mortgage bonds of the common and preferred stock, and to the 7 per cent adjustment mortgage bonds of the Denver & Rio Grande. Should the decision be finally affirmed there is little doubt but that it will compel a reorganization of the Denver & Rio Grande Railroad Co.

#### DECISION NO. 3505. REPORT OF DECISION IN RE WESTERN PACIFIC RAILROAD CO. OF CALIFORNIA.

In the matter of the application of the Western Pacific Railroad Co., of Franklin V. Spooner, Robert R. Pardow, and John C. Rued, and of Henry E. Cooper, A. M. Hunt, James D. Phelan, George Whittell, David R. Forgan, I. DeBruyn, C. Ledyard Blair, Frederick H. Ecker, Starr J. Murphy, Robert W. Martin, William Salomon, and Richard B. Young, as the reorganization committee constituted by the plan and agreement of reorganization of Western Pacific Railway Co., for authorization of proceedings pursuant to said plan and agreement of reorganization. Application No. 2351. Decided July 12, 1916.

Commissioners: Max Thelen (president), H. D. Loveland, Alex Gordon, Edwin O. Edgerton, Frank R. Devlin.

Authorization issued permitting (1) transfer of properties of Western Pacific Railway Co. to the Western Pacific Railroad Co., provided the latter road shall file a stipulation to the effect that it shall never claim a value for any franchise or permit transferred, in excess of the original actual cost thereof; (2) Western Pacific Railroad Co. to issue \$47,500,000 par value of common, and \$27,500,000 par value of preferred, stock and \$20,000,000 face value of 5 per cent first mortgage bonds. Thirteen shares of common stock to be issued to 13 directors at par, the balance to be transferred, together with all

of the preferred stock, and a sum in cash of not to exceed \$2,000,000 to the holding company. Bonds to be sold at not less than 90 of the proceeds, a sum not to exceed \$2,000,000 for reorganization expenses, to pay distributive shares of nonassenting bondholders and other miscellaneous expenses, the balance for improvements, additions, and extensions to existing system. The execution of a deed of trust securing such bonds is also authorized.

Claims for compensation made by various attorneys and participants in the reorganization of Western Pacific Co. severely criticized as being out of all proportion to the services rendered, and the suggestion made that reorganizations would be as expeditiously, efficiently, and far less expensively handled if conducted by the Interstate Commerce Commission in the case of interstate utilities and the various railroad or public service commissions in the case of intrastate utilities.

Of the total amount petitioned for in the sum of \$2,350,000 covering reorganization expenses, such as underwriting commission, fees, taxes, etc., the sum of \$2,000,000 is permitted to be capitalized; amounts expended for the above items in excess thereof must be obtained from earnings at present in the hands of receivers or from sources other than capitalized expenditures.

John F. Bowie, for petitioners.

Perry Evans, for Western Pacific Railway Co.

#### REPORT OF THE COMMISSION.

##### *First supplemental opinion.*

The supplemental petition herein was filed on July 7, 1916. The petition alleges, in effect, that at a foreclosure sale held in the case of the Equitable Trust Co. of New York, complainants, *v.* Western Pacific Railway Co. et al., defendants (Equity No. 169), in the district court of the United States for the Northern District of California, the entire property of Western Pacific Railway Co. was sold for the sum of \$18,000,000 to Franklin V. Spooner, Robert R. Pardow, and John C. Rued, acting at the instance of and pursuant to an arrangement with the reorganization committee constituted under the plan and agreement of reorganization, dated December 15, 1915, of Western Pacific Railway Co.; that said sale was duly confirmed by a decree of said court entered on July 1, 1916; that said purchasers have transferred all their rights to the Western Pacific Railroad Co., one of the petitioners herein; that a deed to said property is to be executed to the Western Pacific Railroad Co. by Francis Krull, the special master, Western Pacific Railroad Co., Warren Olney, jr., and Frank G. Drum, as receivers of the property of Western Pacific Railway Co., the Equitable Trust Co. of New York as trustee under the first mortgage of Western Pacific Railway Co., Central Trust Co. of New York as trustee under the second mortgage of Western Pacific Railway Co., and the said three purchasers; that the Western Pacific Railroad Co. desires to execute a revised deed of trust or mortgage to First Federal Trust Co. of San Francisco and Henry E. Cooper, as trustees, to secure an authorized issue of bonds of the face value of \$5,000,000; and that the Western Pacific Railroad Co., upon the issue of the bonds and capital stock referred to in the order of June 26, 1916, herein is to acquire the entire property of Western Pacific Railway Co. and certain additional property hereinafter described. A description of the property to be acquired by the Western Pacific Railroad Co., as of July 10, 1916, is stated by petitioners to be as follows:

- (a) All of the railroad, properties, franchises, shares of stock, accounts receivable, and other assets of Western Pacific Railway Co. and its receivers, subject, however, to the payment of taxes, the liabilities of the receivers, preferred indebtedness of Western Pacific Railway Co. and other amounts which are charged on said property by the decrees of foreclosure and confirmation.
- (b) Cash in the hands of the receivers which since the date of the hearing of the original petition has increased to the sum of \_\_\_\_\_ \$2,082,204.99
- (c) The sums received by the reorganization committee from the depositors under the plan who elected to pay in full their subscriptions (covering \$4,539,380, principal amount of bonds) June 26, 1916, amounting to \_\_\_\_\_ 4,085,442.00

(d) The sum received by the reorganization committee from the underwriting syndicate as payment in full for \$5,070,631.27, principal amount of bonds amounting to-----	\$4,563,568.15
(e) The sums received by the reorganization committee from subscribing depositors who elected to pay only the installment of 20 per cent called on June 26, 1916, on their subscriptions (the total face amount of bonds covered whereby is \$2,831,640) amounting approximately to-----	509,695.00
Total cash, approximately-----	11,240,910.14
Less sum to be retained by the purchasers amounting to-----	2,350,000.00
Net amount to be paid the Western Pacific Railroad Co., approximately-----	8,890,910.14
(f) The rights of the reorganization committee under the subscriptions of syndicate and depositors for the unpaid portion of their subscriptions amounting (exclusive of accrued interest) to-----	8,841,295.00

The petition asks that the railroad commission make its order as follows:

1. Authorizing Western Pacific Railway Co. to sell and convey its entire property to the Western Pacific Railroad Co.

2. Authorizing the Western Pacific Railroad Co. to issue 13 shares of its common capital stock, of the par value of \$100 each, to its 13 directors, 1 share to each director, upon the payment for said stock in cash, at par.

3. Authorizing the Western Pacific Railroad Co. to issue 474,987 shares of its common capital stock, of the par value of \$47,498,700, and 275,000 shares of its noncumulating 6 per cent preferred capital stock, of the par value of \$27,500,000, to the purchasers or their assigns, in total payment, with the exception of \$2,350,000, in cash, for the entire property of Western Pacific Railway Co. and its receivers, subject to the charges imposed thereon by the decrees of foreclosure and confirmation heretofore entered in said case of the Equitable Trust Co. of New York, complainant, *v.* Western Pacific Railway Co. et al., defendants.

4. Authorizing the Western Pacific Railroad Co. to issue its first mortgage 5 per cent gold bonds of the face value of \$20,000,000, and to sell the same so as to net not less than 90 per cent of their face value, plus accrued interest, provided that the Western Pacific Railroad Co. may credit the purchasers or their assigns on account of the purchase price of the bonds with the interest paid or allowed by the reorganization committee to subscribing depositors and the underwriting syndicate for the period elapsing between the dates of payment by said subscribers or underwriting syndicate to the reorganization committee in payment for bonds and the date of payment by the reorganization committee to the Western Pacific Railroad Co., the total not to exceed the sum of \$15,000, and also the amounts received by the Western Pacific Railroad Co. in payment of 10 per cent heretofore made on subscription for 14,987 shares of its common capital stock, amounting to \$149,870.

5. Authorizing the Western Pacific Railroad Co. to execute and deliver to First Federal Trust Co. and Henry E. Cooper, as trustees, a deed of trust or mortgage to secure its first mortgage gold bonds of the maximum face value of \$50,000,000.

A public hearing on the supplemental petition was held in San Francisco on July 8, 1916, before the railroad commission en banc. It appeared at this hearing that on June 28, 1916, the entire property of Western Pacific Railway Co., subject to certain outstanding obligations, was sold for the sum of \$18,000,000 to three individual purchasers; that these purchasers have assigned their rights, in accordance with a previous agreement, to the Western Pacific Railroad Co., and that the parties desire the railroad commission's authority to the consummation of the transaction, in so far as the commission's consent is necessary.

The first request is that Western Pacific Railway Co. be authorized to sell and convey its entire property to the Western Pacific Railroad Co., subject, however, to the "payment of taxes, the liabilities of the receivers, preferred indebtedness of Western Pacific Railway Co., and other amounts which are charged on said property by said decrees."

In addition to the taxes accruing in California, Nevada, and Utah, and now amounting to approximately \$111,618, the only claims against the property for



taxes are the sum of \$14,080, being an amount claimed by the Federal Government as income tax and an item claimed by the city and county of San Francisco as taxes on the cash in the hands of the receivers. Both the latter items have been contested by the receivers. Petitioners report that the accounts payable and other fixed liabilities of the receivers on July 10, 1916, were approximately \$872,574.10, and that the accounts receivable were \$588,499.50. There are possible contingent liabilities on freight claim and personal injury, fire and live-stock claims, the total estimated payments on which, it is reported, will not exceed the sum of \$60,000. The preferred indebtedness consists of a claim of the Southern Pacific Co. which has been allowed to the extent of \$1,400 and a claim of Utah Fuel Co. amounting to approximately \$40,000, which claim is being contested in its entirety.

While technically there are no "other amounts which are charged on said property by said decrees," the purchasers of the property were compelled to deposit with the special master in the foreclosure proceedings the sum of \$402,063.60 to cover certain items to which reference will now be made, which sum must be repaid to the purchasers or their assigns, in so far as allowed by the Federal court, by the Western Pacific Railroad Co., either from cash in the hands of the receivers or from some other source.

Said sum of \$402,063.60 represents the proportionate share of the assenting bondholders in a total sum of \$425,000. As the portion of that sum which may hereafter be allowed by the Federal court must be paid by the Western Pacific Railroad Co. and will to that extent diminish the ability of the Western Pacific Railroad Co. to make betterments to the existing property, acquire new passenger and freight equipment, and construct necessary extensions and feeders, for all of which purposes the Western Pacific Railroad Co. has asked the railroad commission to authorize the issue of bonds, it becomes necessary for the commission to inquire into the various items which enter into the total amount which the purchasers have been compelled to deposit with the special master. These items, as recited in the decree of confirmation, are as follows:

1. Claim of receivers' counsel-----	\$170,000
2. Claim of receivers-----	80,000
3. Claim of complainant-----	25,000
4. Claim of complainant's counsel-----	75,000
5. Compensation and expenses of special master-----	30,000
6. Costs and expenses of complainant and counsel, and all other charges-----	25,000

The claim of John S. Partridge, attorney for the receivers, is for a fee of approximately \$125,000 per year for his services as counsel for the receivers. The salaries of the entire legal department of Western Pacific Railway Co., with the exception of certain local counsel, prior to the receivership, were not to exceed \$25,000 per year, consisting of \$10,000 for the general counsel, \$7,200 for the general attorney, and the compensation of two or three other attorneys. During the receivership this legal staff, with the exception of general counsel, was retained and paid by the receivers, and continued to perform most of the legal work theretofore handled by the department. Mr. Partridge's services consisted of the usual routine work of counsel for receivers in a railroad receivership, together with the trial of a number of cases and some other work. The counsel for the receivers retained his general practice in the same office in which he practiced law prior to the receivership. Mr. John F. Bowie, counsel for the reorganization committee, testified that he had stated to Mr. Partridge that, in his judgment, a fee of \$40,000 would be a liberal compensation. This claim has not been approved by the receivers. In fact, Mr. Warren Olney, jr., one of the receivers, as testified to by Mr. Bowie, has taken the position, as shown by the testimony herein, that the amount of the fee as claimed is not justified in any manner, shape, or form.

The claim of the receivers is for \$80,000. The testimony shows that the receivers met every morning on receivership matters. Each receiver, however, continued the business in which he was theretofore engaged, one as a member of one of the leading law firms in San Francisco and the other as a financier connected with numerous corporations. The testimony shows that Mr. C. M. Levey, who operated the railroad under the receivers and attended to all the details of operation, received a salary of \$20,000 per year.

The Equitable Trust Co. of New York, trustee under the first mortgage of Western Pacific Railway Co. and complainant in the foreclosure proceedings in the Federal court, claims a compensation of \$25,000 for its services. This is the

only one of the items above referred to which is not being contested before the Federal court by the reorganization committee.

Counsel for complainants ask a fee of \$75,000 for their services. This fee is to be divided between Murray, Prentice & Howland, the New York attorneys of the Equitable Trust Co. of New York, and Jared How, of San Francisco. While the exact division of this amount, if it is allowed, has not been determined, the testimony shows that Mr. How's claim is between \$25,000 and \$30,000. Counsel for the reorganization committee takes the position that this fee includes a retainer in a suit against the Denver & Rio Grande Railroad Co., and that the fee should not exceed the sum of \$50,000.

The fee of \$30,000 for the special master includes an item of \$15,000 for the Federal stamp tax, \$4,500 for advertising, \$1,500 for special master's bond, and \$7,000 for his services. The special master is also to take a trip to Europe for the purpose of stamping certain bonds, for which he is to be paid the sum of \$5,000 in addition to the sum of \$30,000.

The item of \$25,000 covers possible costs and expenses hereafter to arise in connection with court proceedings.

Every person who has the welfare of the State of California at heart wishes to see the new railroad given a fair chance to succeed. Every dollar which is not fairly and reasonably necessary for the payment of the expenses of the receivership and other expenses in connection with the reorganization should be saved to the new company and should be expended by it in the purchase of equipment, in betterments to the property, and in the construction of the branches and feeders which are vitally necessary if the railroad is to succeed.

It seems to be entirely too usual, when a railroad or other utility passes through receivership, for everybody connected therewith—the lawyers, the bankers, the reorganizers, the officers of committees, and the special masters—to regard the unfortunate corporation as legitimate prey for the most exorbitant claims—claims which would never be presented by any rational person for services of the same value to a going concern. Why services of this character should be deemed so much more valuable when performed for a bankrupt concern than for a going concern is difficult to understand.

Among the most extravagant of the claims presented in the Federal court are, of course, the claims for various counsel fees. Fees amounting to five times the entire annual salary roll of the legal department in San Francisco prior to the receivership are demanded by the counsel for the receivers, and fees amounting to three times the annual salaries of the entire San Francisco legal department are demanded by the counsel for the Equitable Trust Co. of New York. The claims would, of course, never be presented except in the case of a receivership. As a further instance of the fees which, apparently by force of tradition, are claimed in these receivership proceedings reference may be made to the fee of \$7,000 claimed by the special master for his services, which services have consisted principally in reading the notice of the sale to the people assembled in front of the Western Pacific Railway Co.'s depot in Oakland and accepting the bid made by the purchasers. While he is charged with the responsibility in connection with the custody of certain bonds and the deposit of certain moneys, it is interesting to note that the banks in which these bonds and moneys are deposited claim a separate and additional fee for the same services. It is significant to draw attention to the fact that for the simple service performed by the special master he is to receive a compensation within \$1,000 of the annual salary of the members of the Supreme Court of the State of California.

The history of this and similar receivership proceedings from one end of the United States to the other prompts us to suggest that the time has come for a complete change in the handling of such proceedings. Instead of having such proceedings handled by special attorneys, special experts, and special officials of various kinds, all claiming extravagant compensation, they could be handled far more economically and generally more efficiently through the Interstate Commerce Commission in case of Federal receiverships and through the State railroad or public-service commissions in case of State receiverships of public-utility properties. These commissioners have available impartial experts, trained in every branch of public-utility business. With the necessary changes in the laws, the commissioners and their experts could handle receivership matters more expeditiously, generally more efficiently, and always at tremendously less expense than the present court proceedings.

In decision No. 3453, rendered on June 22, 1916, in the above-entitled proceeding, the railroad commission stated that it would thereafter authorize the issue of first-mortgage bonds of the face value of \$20,000,000 for certain purposes

specified in the order, including the following: "To pay the distributive shares of nonassenting bondholders, underwriting commissions, expenses of foreclosure and reorganization, including court costs, compensation, and allowances of the receivers and their counsel, the mortgage trustee and its counsel, taxes on the creation and issue of new securities, compensation and expenses of the protective and reorganization committees, their depositaries and counsel, fees of engineering, accounting, and other experts, engraving, printing, and miscellaneous requirements, not to exceed the sum of \$2,000,000.

The supplemental petition herein now alleges that in addition to the items mentioned in the decree of confirmation, totaling for the assenting bondholders the sum, as now claimed, of \$402,063.60, all of which items were included in the items covered by said sum of \$2,000,000, it will now be necessary to secure from the first-mortgage bonds of the Western Pacific Railroad Co. the sum of \$2,350,000. The petition asks that the commission now amend its order so as to authorize the use of the proceeds of bonds, said proceeds amounting to the sum of \$2,350,000 for a part of the purposes for the total of which the railroad commission has heretofore stated that it would authorize the use of proceeds amounting to \$2,000,000 from the sale of bonds.

The revised statement of the purposes for which it is proposed to use said \$2,350,000 has been filed herein and reads as follows:

1. Amount payable to special master as part of purchase price	\$971,424
2. Commission of underwriting syndicate	400,000
3. Compensation of underwriting guarantors	100,000
4. Central Trust Co., of New York:	
Cross-complainant in foreclosure suit	\$5,000
Counsel	7,500
Expenses	107
	12,607
5. Special master's trip to Europe:	
Compensation and traveling expenses	3,000
Expenses of advertising, distributing funds, etc	2,000
	5,000
6. The Western Pacific Railroad Corporation:	
Incorporation tax	3,850
Federal war tax on original issue of stock	37,500
Federal war tax on transfer of stock	15,000
New York tax on transfer of stock	15,000
Engraving of stock certificates and other printing	5,000
Notaries, filing fees, etc	100
Resident Delaware agent	100
Counsel fees for preparing charter, by-laws, stock certificates, and attending to incorporation, issue of stock, and incidental matters	15,000
	91,550
Working capital	150,000
7. Dutch bondholders' protective committee	20,000
8. Dutch stamp tax and transportation of securities	25,000
9. Western Pacific first-mortgage bondholders committee:	
Depositary and agents of depositary	40,000
Printing, postage, and other disbursements to date	12,600
Disbursements of counsel	5,400
Counsel fees	60,000
Secretary	5,000
11 members of committee, at \$7,500 each	82,500
Chairman	12,500
	218,000
10. Reorganization committee:	
Depositary and agents	40,000
Printing, postage, traveling expenses, and other disbursements to date	20,492
Disbursements of counsel	5,000
Secretary	10,000
11 members of committee, at \$12,500 each	137,500
Chairman	27,500
Counsel fees	60,000
	300,492



11. Reserved to provide for future expenses, such as insurance on transporting securities between New York, San Francisco, Boston, and Chicago, cost of interim receipts of depositaries to be used in case of delay in engraving of permanent securities, and other expenses, any unexpended balance to be turned over to holding company as additional working capital -----	\$55,927
Total -----	2,350,000

Many of the items in the foregoing list are entirely reasonable. Other items are clearly too high and should be reduced. We are of the opinion that we would not be justified in authorizing the capitalization of any amount for the items hereinbefore referred to in excess of the amount for the items hereinbefore referred to in excess of the amount stated in our original order herein, being the sum of \$2,000,000. If, after a reasonable effort has been made to place these expenditures on a reasonable basis, the sum of \$2,000,000 will not be sufficient for this purpose, we assume that any remaining sum may be paid from cash in the hands of the receivers and not capitalized by the issue of bonds.

We are of the opinion that the protective and reorganization committees and their counsel should be commended for the efforts which they have made to bring about an honest reorganization with as reasonable an expenditure as is consistent with the way in which reorganizations are handled. However, the mere fact that the present reorganization is on terms more reasonable than some other reorganizations in the past is by no means conclusive of the wisdom or efficiency of the present method of handling receiverships.

Western Pacific Railway Co. will be authorized to sell and convey its entire property to the Western Pacific Railroad Co., subject to the usual condition that the grantee shall file with the railroad commission a stipulation in form satisfactory to the commission that it will never claim before the railroad commission or any other public authority any value for its franchises in the State of California in excess of the sum paid for them by the original grantee.

The Western Pacific Railroad Co. will be authorized to issue 13 shares of its common capital stock, of the par value of \$100 each, to its 13 directors, 1 share to each director, upon the payment for said stock in cash, at par, and will also be authorized to issue 474,987 shares of its common capital stock of the par value of \$47,498,700, and 275,000 shares of its noncumulative 6 per cent preferred capital stock, of the par value of \$27,500,000, to the Western Pacific Railroad Corporation, the holding company, incorporated under the laws of Delaware, in partial payment for the property of Western Pacific Railway Co. The sum of \$149,870 heretofore paid on a subscription for 14,987 shares of the common capital stock of the Western Pacific Railroad Co. will, we assume, be repaid out of cash now in the hands of the receivers.

The Western Pacific Railroad Co. will be authorized to execute and deliver to First Federal Trust Co. and Henry E. Cooper, as trustee, a deed of trust or mortgage in substantially the form attached to the supplemental petition herein as "Supplemental Exhibit No. 3," securing a maximum issue of first mortgage bonds of the face value of \$50,000,000.

The Western Pacific Railroad Co. will be authorized to issue bonds of the face value of \$20,000,000 and to use the proceeds thereof for the purposes specified in the order herein of June 22, 1916.

#### *First supplemental order.*

Western Pacific Railway Co. and the Western Pacific Railroad Co. and other parties having filed herein a supplemental petition, as indicated in the opinion which precedes this order, and a public hearing having been held on said supplemental petition, and the railroad commission finding that the purposes for which the capital stock and bonds herein authorized to be issued are to be used are not in whole or in part reasonably chargeable to operating expenses or to income.

It is hereby ordered as follows:

I. Western Pacific Railway Co. is hereby authorized to sell and convey to the Western Pacific Railroad Co. its entire property, more particularly described in Exhibit "A," which is attached to this order and made a part thereof: *Provided*, That within 30 days from the date of this first supplemental order the

Western Pacific Railroad Co. shall have filed herein a stipulation, in form satisfactory to the railroad commission, duly authorized by its board of directors, agreeing for the Western Pacific Railroad Co., its successors and assigns, that they will never claim before the railroad commission or any other public authority, in any proceeding of any character, any value for the franchises and permits in the State of California herein authorized to be conveyed in excess of the amount paid therefor by their original grantee in each case, which stipulation shall refer by number of ordinance or resolution and date to each such franchise or permit and shall state the sum paid in each instance by the original grantee.

II. The Western Pacific Railroad Co. is hereby authorized to issue 475,000 shares of its common capital stock of the par value of \$47,500,000 and 275,000 shares of its noncumulative 6 per cent preferred capital stock of the par value of \$27,500,000 and \$20,000,000 face value of its first-mortgage gold bonds, to mature on March 1, 1946, and to bear interest at the rate of 5 per cent per annum, payable on the 1st days of March and September of each year, on the following conditions and not otherwise, to wit:

1. The Western Pacific Railroad Co. is hereby authorized to issue 13 shares of its common capital stock, of the par value of \$100 each, to its 13 directors, one share to each director, upon the payment for said stock, in cash, at par, and shall apply the proceeds from the sale of said capital stock to the construction of extensions and feeders.

2. The Western Pacific Railroad Co. is hereby authorized to issue 474,987 shares of its common capital stock, of the par value of \$47,498,700 and 275,000 shares of its noncumulative 6 per cent preferred stock, of the par value of \$27,500,000, to the Western Pacific Railroad Corporation, the holding company, in total payment, with the exception of a sum not to exceed \$2,000,000 in cash, hereafter referred to, for the entire property of Western Pacific Railway Co., more particularly described in Exhibit "A," hereto attached: *Provided*, That the par value of said capital stock shall never be claimed before the railroad commission or any other public authority as representing for rate making or any other purpose the present fair value of the property herein authorized to be conveyed.

3. The Western Pacific Railroad Co. is hereby authorized to issue its first-mortgage gold bonds of the face value of \$20,000,000, to be secured by the deed of trust or mortgage hereinafter referred to, on the following conditions and not otherwise:

(a) Said bonds shall be sold so as to net the Western Pacific Railroad Co. not less than 90 per cent of their face value, plus accrued interest.

(b) The proceeds from the sale of said bonds shall be used for the following purposes:

(1) To pay the distributive shares of nonassenting bondholders, underwriting commission, expenses of foreclosure and reorganization, including court costs, compensation and allowances of the receivers and their counsel, the mortgage trustee and its counsel, taxes on the creation and issue of new securities, compensation and expenses of the protective and reorganization committees, their depositaries and counsel; fees of engineering, accounting, and other experts; engraving, printing, and miscellaneous requirements, not to exceed the sum of \$2,000,000.

(2) The detailed statements of the purposes for which the following expenditures are to be incurred shall have been filed by the Western Pacific Railroad Co., the proceeds from the sale of said bonds may be used, in general, for the following purposes:

- |   |             |
|---|-------------|
| (a) For betterments to the existing property of Western Pacific Railway Co., not to exceed the sum of.....  | \$2,597,750 |
| (b) For the acquisition of new passenger and freight equipment, not to exceed the sum of.....   | 3,514,000   |
| (c) For the acquisition, by purchase, construction, or otherwise, of extensions and feeders, including payment of interest during construction, the acquisition of additional new property, the payment of receivers' car trust obligations, the provision of working capital for the Western Pacific Railroad Co., and the possible protection of claims against the Denver & Rio Grande Railroad Co., not to exceed the sum of..... | 10,506,250  |

4. The Western Pacific Railroad Co. shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the

sale of the capital stock and bonds hereby authorized to be issued, and on or before the 25th day of each month the company shall make a verified report to the railroad commission, stating the sale or sales of said bonds and capital stock during the previous month, the terms and conditions of sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this commission's general order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority hereby given to issue capital stock and bonds shall apply only to capital stock and bonds issued by the Western Pacific Railroad Co. on or before July 1, 1917.

6. The authority hereby given to issue bonds shall not become effective until the Western Pacific Railroad Co. has paid the fee specified in the public utilities act.

III. The Western Pacific Railroad Co. is hereby authorized to execute its deed of trust or mortgage to Federal Trust Co. and Henry E. Cooper, trustees, to be dated June 26, 1916, and to secure the issue of a maximum face value of first mortgage gold bonds in the amount of \$50,000,000, to mature March 1, 1946, of which bonds the first \$20,000,000 principal amount are to bear interest at the rate of 5 per cent per annum, payable on the 1st days of March and September, and to be redeemable at the face amount thereof and accrued interest thereon, and the other bonds are to bear interest at such rate or rates, not exceeding 6 per cent per annum, payable on such semiannual dates and to be redeemable at such price or prices as shall be determined by the board of directors of the company at the time of the issue thereof, subject to the approval of the railroad commission, said deed of trust or mortgage to be in substantially the form attached to the supplemental petition herein and marked "Supplemental Exhibit No. 3"; provided that the approval herein given of said mortgage or deed of trust is for the purpose of this proceeding only, and is an approval in so far as the railroad commission has jurisdiction under the terms of the public utilities act, and is not intended as an approval of said mortgage or deed of trust as to such legal requirements to which said mortgage or deed of trust may be subjected.

Dated at San Francisco, Cal., this 12th day of July, 1916.

#### EXHIBIT "A."

(1) Western Pacific Railway Co.'s main line of railroad from San Francisco, Cal., to Salt Lake City, Utah, commencing at the city and county of San Francisco, running thence in and through the said city and county of San Francisco, and along, over, and across the streets, alleys, and squares thereof; thence by ferry and barge system to the city of Oakland, Alameda County, Cal.; thence in and through said city of Oakland, and along, over, and across the streets, alleys, and squares thereof; thence southeasterly and easterly to a point on the boundary line between the said county of Alameda and the county of San Joaquin, State of California; thence in a general easterly, northeasterly, and northerly direction to the city of Stockton, said county of San Joaquin; thence in a general northwesterly and northerly direction to the city of Sacramento, county of Sacramento, State of California; thence in and through said city of Sacramento, and along, over, and across the streets, alleys, and squares thereof; thence in a general northerly direction to the city of Marysville, county of Yuba, State of California; thence in a general northerly direction to a point at or near the town (now city) of Oroville, county of Butte, State of California; thence northerly and northeasterly along the north fork of the Feather River, easterly and northeasterly along the east branch of the north fork of Feather River, southerly and southeasterly along Spanish Creek and Spring Garden Creek, southeasterly and northeasterly along the middle fork of the Feather River to a point in Sierra Valley, county of Plumas, State of California; thence easterly across Sierra Valley and through Beckwith Pass to a point on the boundary line between the States of California and Nevada; thence in a general easterly direction across the State of Nevada to a point on the boundary line between the States of Nevada and Utah; thence in a general easterly direction to a point in Salt Lake City, Salt Lake County, said State of Utah, including that certain line of railroad formerly owned by the Alameda and San Joaquin Railroad Co. and now owned by the Western Pacific Railway Co., extending from the city of Stockton, county of San Joaquin, State of California, to Tesla, Alameda County, Cal., a distance of about 36.6 miles, together with all the other property and



franchises acquired by the Western Pacific Railway Co. from said last-named company.

Also all the railroads, terminals, rights of way, franchises, and other property heretofore acquired by Western Pacific Railway Co. from the San Francisco Terminal Railway and Ferry Co., the Sacramento and Oakland Railway Co., and the Stockton and Beckwith Pass Railway Co.

(2) All other lines of railroad wherever situated, whether owned by Western Pacific Railway Co. at the time of the execution and delivery of its first mortgage or thereafter constructed or acquired, whether by the railway or the receivers of its property, and owned by it, including all branches, extensions, terminals, terminal property and interest in terminals, union depots or stations, and all way grounds, rights of way, depot grounds, roadbeds, superstructures, rails, tracks, sidetracks, sidings, switches, and turnouts, bridges, viaducts, culverts, embankments, lands, yards, buildings, offices, depots, stations, warehouses, car houses, engine houses, freight houses, coal houses, wood houses, machine shops, and other shops, turntables, water stations, water tanks, fences, telegraph lines, elevators, structures, erections and fixtures, and all wharves, piers, docks, ferries, boats, steamers, barges, transports, tugs, and transfer and ferryboats.

(3) All the right, title, and interest of Western Pacific Railway Co. in and to any and all parcels of real property wherever situated, either owned by it or purchased or acquired by the receivers of its property, or in which it has the sole beneficial interest, and which have been acquired from time to time, although such parcels may be detached from and do not form an integral part of the railway's line of railway.

(4) All locomotives, engines, cars, and other rolling stock, steam or electrical equipment, machinery, instruments, tools, implements, materials, supplies, furniture, and other chattels of Western Pacific Railway Co., wheresoever situated, whether acquired by the railway or by the receivers of its property.

(5) All the following-described shares of stock, which said stock, with the exception of stock in Salt Lake City Union Depot & Railroad Co., are deposited and pledged with and held by The Equitable Co. as trustee of the first mortgage of Western Pacific Railway Co., namely:

\$400,500 par value of stock of the Standard Realty & Development Co.

\$2,500,000 par value of stock of the San Francisco Terminal Railway & Ferry Co.

\$1,000,000 par value of stock of the Stockton & Beckwith Pass Railway Co.

\$99,900 par value of stock of the Salt Lake City Union Depot & Railroad Co.

(6) All cash in the possession of the receivers of the property of the Western Pacific Railway Co. or to which they are entitled, all sums of money and all accounts of every kind due to the receivers, all estates, interests, and rights under leases, trackage, terminal, crossing, operating, and other executory contracts and agreements to which the railway or the receivers may be parties.

(7) Western Pacific Railway Co.'s rights and interests in and under the following agreements:

(a) An agreement, dated June 23, 1905, between the Western Pacific Railway Co., the Rio Grande Western Railway Co. (now consolidated into the Denver & Rio Grande Railroad Co.), and the Bowling Green Trust Co., as trustee under the first mortgage of the railway.

(b) An agreement, dated June 23, 1905, between the Western Pacific Railway Co., the Denver & Rio Grande Western Railway Co. (now consolidated into the Denver & Rio Grande Railroad Co.), and the Bowling Green Trust Co., as trustee under the first mortgage of the railway.

(c) An agreement, dated June 23, 1905, between the Missouri Pacific Railway Co. and the Denver & Rio Grande Railroad Co.

(d) All other agreements, leases, and traffic contracts to which the Western Pacific Railway Co. is a party or in which the railway has an interest.

(8) All other property of every kind and description owned by the Western Pacific Railway Co., or acquired by the railway or by the receivers of its property; also any and all corporate and other rights, powers, privileges, and franchises, easements, tenements, hereditaments, and appurtenances, reversions, and remainders, which the railway held at the time of the execution and delivery of its first mortgage, or which it or the receivers have subsequently acquired and now possess or exercise, and any and all rents, issues, profits, tolls, and other income of said lines of railroad, extensions, and branches, or any part thereof, and all the estate, right, title, and interest, property, possession, claim, and demand whatsoever, as well at law as in equity, of the said railway

of, in, and to the said lines of railroad, terminals, and other property, and any and every part thereof, with all of the appurtenances.

(9) Excepting out of and reserving from the property above described so much thereof, if any, as shall heretofore have been conveyed by the Western Pacific Railway Co. and released from the lien of the first mortgage by the trustee thereunder and released from the second mortgage by the trustee thereunder.

(10) Excepting also out of and reserving from the property above described any and all trackage and operating rights now existing in the Boca & Loyaltan Railroad Co., Chester L. Hovey, as receiver thereof, and the Mercantile Trust Co., of San Francisco, as trustee under the first mortgage of the Boca & Loyaltan Railroad Co., over a certain portion of the track approximately  $3\frac{1}{2}$  miles in length.

Subject to all lawful obligations against said property.

#### RECEIVERSHIP OF WHEELING & LAKE ERIE RAILROAD CO.

The Wheeling & Lake Erie Railroad was organized April 28, 1899. On June 8, 1908, B. A. Worthington was appointed receiver on the application made by the National Car Wheel Co., a creditor to the extent of \$87,910. In June, 1912, William Duncan was appointed receiver to succeed B. A. Worthington, who resigned. The road was sold at foreclosure sale on October 30, 1916, to representatives of Kuhn, Loeb & Co., reorganization managers.

On June 30, 1916, Wheeling & Lake Erie operated the following mileage:

Lines owned.	Toledo division.	Cleveland division.
	Miles.	Miles.
Main line:		
Toledo to Terminal Junction, Ohio.....	210.05	
Cleveland to Zanesville, Ohio.....		144.20
Aetnaville extension, Terminal Junction to Aetnaville, Ohio.....	2.75	
Huron branch, Huron Junction to Huron, Ohio.....	12.80	
Steubenville branch, Warrenton to Steubenville, Ohio.....	13.65	
Sherrods branch, Canton to Sherrods, Ohio.....		45.47
Massillon branch, Orrville Junction to Run Junction, Ohio.....	22.09	
Total lines owned.....	261.34	189.67
Total owned, 451.01 miles.		
Lines operated: Chagrin Falls branch, Falls Junction to Chagrin Falls, Ohio.....		8.19
Lines leased: Adena R. R.; Adena to St. Clairsville Junction, Ohio.....	20.93	
Trackage rights: Cleveland, Cincinnati, Chicago & St. Louis Ry.; Linndale to Wellington.....	32.00	
Total.....	314.27	197.86
Total operated, 512.13 miles.		

For the purpose of this report reference will be made to the—

1. Reorganization of company in 1889 and 1900.
2. Purchase of control by Gould interests.
3. Three-year \$8,000,000 not issue in 1905.
4. Receivership in 1908.
5. Revenues and expenses.
6. Capitalization on June 30, 1901, and on June 30, 1916.
7. Reorganization plan.

#### 1. REORGANIZATION OF COMPANY IN 1889 AND 1900.

On June 26, 1889, the stockholders of Wheeling & Lake Erie ratified the purchase of the properties of the Cleveland, Canton & Southern and of the Cleveland Belt Line Railway sold at foreclosure sale. The latter company owned terminal properties in Cleveland, the former a line of railway extending from Cleveland to Coschocton, Ohio. At the same meeting the stockholders voted to increase the capital stock of the Wheeling & Lake Erie from \$24,500,000 to \$37,500,000, the increase to consist of:

1. Common stock.....	\$10,000,000
2. First preferred stock.....	3,000,000
3. Second preferred stock.....	5,000,000

They also authorized the execution of a new \$15,000,000 4 per cent mortgage, the new bonds being appropriated for the following purposes:

1. To retire present outstanding first mortgage 5s.....	\$6,400,000
2. To retire outstanding equipment trust certificates to purchase new equipment.....	1,200,000
3. To purchase Cleveland, Canton & Southern and Cleveland Belt.....	4,000,000
4. To extend Cleveland Belt, to improve terminals at Cleveland, to reduce grades, and extend the Wheeling & Lake Erie.....	1,400,000
5. For future extensions, additions, and betterments.....	2,000,000

The underlying bonds to which reference was made above consisted of:

1. Lake Erie division first mortgage 5s.....	\$3,000,000
2. Wheeling division first mortgage 5s.....	1,500,000
3. Extensions and improvements first mortgage 5s.....	1,624,000
4. Toledo Belt Railway first mortgage 5s.....	276,000

Total..... 6,400,000

To induce the underlying bondholders, also referred to as the divisional bondholders, to exchange their 5 per cent bonds for the new 4 per cent bonds, the following offer was made to them:

Divisional bondholders for each \$1,000 5 per cent bond.	To receive—		
	New 4s.	First preferred stock.	Second preferred stock.
Lake Erie division, first mortgage.....	\$1,000	\$300	\$150
Wheeling division, first mortgage.....	1,000	200	100
Extension and improvement, first mortgage.....	1,000	200	100
Toledo Belt Ry., first mortgage.....	1,000	200	100

The refunding of the divisional 5s into the new 4s was not particularly successful, for on June 30, 1916, there were outstanding—

Lake Erie division 5s.....	\$2,000,000
Wheeling division 5s.....	894,000
Extension and improvement 5s.....	409,000

Total..... 3,303,000

The refunding of all of the underlying bonds on the basis above outlined would have required the issue of—

Consolidated 4s.....	\$6,400,000
First preferred stock.....	1,580,000
Second preferred stock.....	790,000

Or a total of stocks and bonds of.....	8,770,000
To retire bonds in the amount of.....	6,400,000

Under date of June 15, 1900 (Commercial and Financial Chronicle, vol. 71, p. 34), the Wheeling & Lake Erie applied to the New York Stock Exchange to list:

1. \$7,529,000 first consolidated 4s due September 1, 1949.
2. \$3,855,200 first preferred noncumulative 4 per cent stock.
3. \$10,427,600 second preferred noncumulative 4 per cent stock.
4. \$19,000,000 common stock.

The report furnished the governing committee of the New York Stock Exchange shows that the stock and bonds which the company desired to have listed were issued for the following purposes:

A. First consolidated 4s, \$7,529,000.

a. \$3,850,000 issued to purchase Cleveland, Canton & Southern and Cleveland Belt Terminal Railway properties.



- b. \$1,954,000 issued to retire car trust certificates and improve system.  
 c. \$1,725,000 issued to refund divisional bonds.  
 B. First preferred stock, 4 per cent noncumulative, \$3,855,200.  
 a. \$2,500,000 issued under reorganization plan of February 7, 1898.  
 b. \$920,000 issued to pay in part for Cleveland, Canton & Southern and Cleveland Belt Railway properties.  
 c. \$435,200 issued to refund divisional 5 per cent bonds.  
 C. Second preferred 4 per cent noncumulative stock, \$10,427,600.  
 a. \$7,000,000 issued under reorganization plan of February 7, 1898.  
 b. \$3,210,000 issued as part payment for properties of Cleveland, Canton & Southern and Cleveland Belt Railway.  
 c. \$217,600 issued to refund divisional 5s.  
 D. Common stock, \$19,000,000.  
 a. \$15,000,000 issued under reorganization plan of February 7, 1898.  
 b. \$4,000,000 issued as part payment for purchase of properties of Cleveland, Canton & Southern and Cleveland Belt Railway.

The unissued stocks and bonds of the company on June 15, 1900, consisted of:

Purpose.	New consolidated 4s.	First preferred stock.	Second preferred stock.	Common stock.
Refunding balance of divisional 5s.....	\$4,675,000	\$1,144,800	\$572,400	
For equipment and improvement.....	796,000			
To purchase Coshocton & Southern.....	490,000			
For future needs of company.....	1,510,000		1,000,000	\$1,000,000

From this tabulation it appears that the only marketable securities which the company had in 1900 were \$2,306,000 of 4 per cent bonds.

The Wheeling & Lake Erie Railroad Co. was organized under a plan of February 7, 1898, which called for the conversion of the then outstanding consolidated 4 per cent mortgage bonds of the Wheeling & Lake Erie Railway Co. into first preferred stock at 106 of the Wheeling & Lake Erie Railroad Co. All but \$2,000 of the old bonds were converted. Under the reorganization plan there was issued:

1. \$2,500,000 first preferred stock.
2. \$7,000,000 second preferred stock.
3. \$15,000,000 common stock.

## 2. PURCHASE OF CONTROL BY GOULD INTERESTS.

In its issue of March 30, 1901 (vol. 72, p. 628), the Commercial and Financial Chronicle reports that the shares of the Wheeling & Lake Erie advanced sharply on large transactions. The increase in the stock gave rise to reports that some connecting road was acquiring control. The stock prices quoted during January, February, and March, 1901, show that the common ranged from  $11\frac{3}{8}$  on January 3 to  $21\frac{3}{8}$  on March 29, the first preferred from  $53\frac{1}{2}$  on February 2 to  $60\frac{1}{2}$  on March 24, and the second preferred from  $27\frac{1}{2}$  on January 21 to 38 on March 28.

In its issue of April 13, 1901 (vol. 72, p. 723), the Commercial and Financial Chronicle reports that George Gould, through purchases of common stock in the open market, acquired control of the Wheeling & Lake Erie. At the annual meeting on May 1, 1901, the Gould interests assumed active control of the Wheeling & Lake Erie.

I was unable to ascertain whether the stock of Wheeling & Lake Erie was purchased by Gould or by the Pittsburgh-Toledo Syndicate, a Wabash-Gould enterprise designed to gain for the Wabash an entrance into Pittsburgh. It was the syndicate which turned the Wheeling & Lake Erie stock over to the Wabash-Pittsburgh Terminal Railway Co. for \$6,200,000, according to A. W. Ferrin (Moody's Magazine, vol. 17, p. 393). All of the outstanding stock of the terminal company was issued to the Wabash.

The Wheeling & Lake Erie stock delivered to the Wabash-Pittsburgh Terminal Railway Co. consisted of:

	Total stock outstanding.	Acquired by Wabash-Pittsburgh Terminal.
Common.....	\$20,000,000	\$11,870,000
First preferred.....	12,000,000	6,423,800
Second preferred.....	5,000,000	847,500
Total.....	37,000,000	19,141,300

The Gould interests acquired 51.6 per cent of the Wheeling & Lake Erie stock.

It appears that most of the stock was acquired during 1900 and the early part of 1901. The range in the sale prices of Wheeling & Lake Erie stock on the New York Stock Exchange from 1899 to 1903 is reported as follows:

Class of stock.	Year.	Lowest.	Highest.
Common.....	1899	7 $\frac{1}{4}$	13
	1900	8	13 $\frac{1}{2}$
	1901	11 $\frac{3}{4}$	22
	1902	17	30 $\frac{1}{2}$
	1903	12	27 $\frac{1}{2}$
Second preferred.....	1899	21 $\frac{1}{2}$	32 $\frac{1}{2}$
	1900	21 $\frac{1}{2}$	33 $\frac{1}{2}$
	1901	24	38
	1902	28	42 $\frac{1}{2}$
	1903	20	38 $\frac{1}{2}$
First preferred.....	1899	45	64
	1900	44 $\frac{1}{2}$	58 $\frac{1}{2}$
	1901	45	60 $\frac{1}{2}$
	1902	49 $\frac{1}{2}$	66
	1903	40 $\frac{1}{2}$	62

The foregoing range in the sale prices of the Wheeling & Lake Erie stock would indicate that the Gould interests paid from \$3,500,000 to \$4,500,000 for the control of this company.

J. Ramsey, jr., vice president and general manager of the Wabash, announced that the Wheeling would be separately operated, but that close working arrangements would be made with the Wabash. The new management contemplated to construct a short line from Jewett, Ohio, to Steubenville, Ohio, and from the latter point gain an entrance into Pittsburgh by means of trackage rights over an existing road. (Commercial and Financial Chronicle, vol. 72, p. 874.) Later the plans of the Wabash management were modified and entrance into Pittsburgh secured through construction of a 60-mile line by the Pittsburgh-Toledo Syndicate, and by it turned over to the Wabash-Pittsburgh Terminal Railway Co.

In his report for the year ending June 30, 1901, J. Ramsey, jr., president of the Wheeling & Lake Erie, says in substance:

The freight equipment is far below standard which the requirements of traffic call for. We must arrange at once for at least 2,000 to 2,500 40-ton coal cars and from 20 to 25 freight locomotives, the same to be paid by issuing equipment certificates. Heavy grades must be reduced, curves eliminated, stronger bridges constructed, and light rails replaced with heavier ones. These improvements must be made out of earnings. The road is surrounded by railroads owned and operated by the wealthiest and strongest companies in the country, and it must be prepared to carry traffic at very low rates and at as low a cost per ton as any, or it must again go to the wall.

### 3. THREE-YEAR \$8,000,000 NOTE ISSUE IN 1905.

In February, 1903, Myron T. Herrick, chairman of the board of directors of the Wheeling & Lake Erie, was quoted as saying:

"Among the big improvements practically decided upon are the double-tracking of the entire road east of Toledo and south of Cleveland all the way

through. The business of the road has increased at such an enormous rate that a double-track line has become necessary and the work will doubtless be started in the near future."

J. Ramsey, jr., president of the Wheeling & Lake Erie, in his annual report for the year ending June 30, 1914, after referring to the need of 2,000 40-ton coal cars, continued to say, in substance:

These are the immediate requirements of the company (if it is to profit by the Pittsburgh and other developments), and in addition to this there is the cost of the Adena extension—already built and paid for, but not financed—the Toronto extension, the Zanesville, Cleveland, and terminal extension, and the Pittsburgh, Lisbon & Western and Youngstown branches, to be provided for at an early date.

If the proper facilities, double-track equipment, and terminals are provided by the company the gross earnings of the company will be double in two or three years.

President Ramsey urged the adoption of a financial plan which would permit the company to carry forward his suggested extensions and improvements.

On May 20, 1905, the stockholders of the Wheeling & Lake Erie authorized the creation of a \$50,000,000 50-year 4 per cent mortgage. Later the amount was reduced to \$35,000,000.

In its issue of April 29, 1905, the Commercial and Financial Chronicle (vol. 80, p. 1730) reported that subject to the creation of the new bonded indebtedness the company had sold bonds to the amount of \$10,000,000. It further appears that at this time there was a difference of opinion between George Gould and J. Ramsey, jr., in regard to the advisability of the sale of the bonds. Gould insisted that the company instead of issuing bonds should issue \$8,000,000 of 3-year 5 per cent gold notes. Ramsey refused to yield to the wishes of Gould, and as a consequence was removed from office. The contract for the sale of bonds was rescinded and the \$8,000,000 of 3-year notes, due August 1, 1908, purchased by William A. Reid & Co. and Blair & Co. The payment of the notes was secured by the deposit of \$12,000,000 of Wheeling & Lake Erie general mortgage 50-year 4 per cent bonds, due August 1, 1955. The notes were also indorsed by the Wabash.

The subsequent financial difficulties and the receivership of the Wheeling & Lake Erie is directly traceable to the issue of the \$8,000,000 face value of three-year notes.

The annual report for the year ending June 30, 1906, shows that the \$8,000,000 of notes were sold at 95, netting the company \$7,600,000. The report further shows that of the proceeds, \$2,180,677 was used to pay for 62 locomotives and 2,000 gondola cars, and \$1,996,819 to pay obligations incurred in acquiring and constructing railroad properties, leaving \$3,422,054 on hand for new equipment and improvements. None of the proceeds of these notes were used for double tracking the Wheeling & Lake Erie, a matter which was apparently abandoned by those in charge.

#### 4. RECEIVERSHIP IN 1908.

On June 8, 1908, Judge Robert W. Taylor, in the United States district court at Toledo, appointed First Vice President and General Manager B. A. Worthington receiver of the Wheeling & Lake Erie on the application of the National Car Wheel Co., a creditor to the amount of \$87,910. In its issue of June 13, 1908, the Commercial and Financial Chronicle (vol. 86, p. 1469) alleges that the receivership was caused by the heavy fall of net earnings and financial troubles of the Wabash-Pittsburgh Terminal Railway Co., controlling the Wheeling & Lake Erie. Further attention is called to the error made in 1905, when \$8,000,000 of three-year notes were issued instead of bonds sold.

George J. Gould is reported as saying:

"The receivership of the Wheeling & Lake Erie was inevitable after the Wabash-Pittsburgh Terminal had defaulted. The latter was unfortunately overcapitalized. We probably could have carried it through, but I did not want the Wabash to become overloaded with charges which might pull it down. The Wabash is a fine property with great earning powers, and will not be permitted to become further involved.

"The \$8,000,000 Wheeling & Lake Erie notes coming due in August and guaranteed by the Wabash will not be allowed to embarrass the Wabash. The Wabash is perfectly able to take care of itself."



Receiver Worthington is quoted as saying:

"The fiscal year ending June 30, 1907, was the most prosperous the Wheeling & Lake Erie ever had, and a still better record was being made in the first four months of the present year. Earnings were running at the rate of \$18,500 per mile on the single-track road, and the outlook was for a surplus of \$750,000 for the fiscal year. Then came the panic and the bottom dropped out of the road's business. It declined more than 50 per cent. Operating expenses were still earned, but fixed charges were not and the action taken to-day is the result."

#### 5. REVENUES AND EXPENSES.

The revenues and expenses of the Wheeling & Lake Erie from 1900 to 1916, both years inclusive, are shown by the following tables:

TABLE I. *The Wheeling & Lake Erie Railroad Co., revenues and expenses, 1900-1908.*

[Data from annual reports, fiscal years ending June 30.]

Item.	1900	1901	1902	1903	1904	1905	1906	1907	1908
Operating revenues.....	\$2,670,024	\$2,954,105	\$3,537,023	\$4,234,771	\$4,325,282	\$4,585,606	\$5,318,801	\$6,124,207	\$5,397,001
Operating expenses.....	1,904,993	2,075,514	2,593,803	3,233,062	3,275,299	3,636,135	3,762,155	4,125,370	4,298,244
Net earnings.....	765,031	877,591	943,220	1,001,709	1,120,181	956,471	1,556,646	1,998,837	1,098,757
Operating ratio.....	71.35	70.29	73.33	76.35	75.73	79.19	70.73	67.36	79.8
Other income.....	40,070	44,058	.....	.....	70,198	.....	.....	120,431	160,186
Total.....	805,101	921,649	943,220	1,001,709	1,120,181	956,471	1,556,646	2,119,268	1,006,900
Deductions:									
Interest on bonds.....	509,117	542,319	572,296	603,163	617,870	617,870	904,948	1,033,030	1,176,347
Other interest.....	.....	.....	.....	.....	.....	.....	60,103	.....	.....
Taxes.....	80,975	96,751	129,562	154,254	157,045	183,231	187,599	226,917	252,043
Rentals and miscellaneous.....	8,775	135,627	169,238	231,611	281,612	348,730	311,701	627,092	437,478
Total.....	598,897	774,697	871,096	989,028	1,056,527	1,149,831	1,464,351	1,787,039	1,610,827
Surplus.....	206,234	146,952	72,124	12,680	63,654	1,193,368	92,294	332,229	1,603,927

1 Deficit.

TABLE II.—*The Wheeling & Lake Erie Railroad Co., revenues and expenses, 1909-1916.*

[Data from annual reports, fiscal years ending June 30.]

Item.	1909	1910	1911	1912	1913	1914	1915	1916
Operating revenues.....	\$5,633,645	\$6,950,436	\$6,800,707	\$7,498,146	\$7,831,948	\$7,658,424	\$5,428,069	\$9,184,516
Operating expenses.....	4,200,718	4,776,053	4,744,267	5,038,335	5,884,811	5,206,660	4,030,740	5,960,229
Net operating revenues.....	1,432,927	2,174,383	2,056,440	2,459,811	1,947,137	2,361,764	1,388,329	3,224,287
Operating ratio.....	74.6	68.8	69.9	66.8	75.1	69.2	74.2	64.9
Surplus from outside operations.....	902	934	515	1,776	1,403	.....	.....	.....
Total net revenue.....	1,433,829	2,175,317	2,056,955	2,461,587	1,948,540	2,361,764	1,388,329	3,224,287
Less taxes.....	260,336	261,504	248,007	367,225	362,426	396,831	385,907	452,393
Operating income.....	1,173,493	1,913,813	1,808,948	2,094,362	1,586,114	1,964,933	1,002,422	2,771,894
Other income.....	52,980	86,847	32,920	24,157	31,101	63,369	20,273	36,947
Total income.....	1,206,473	2,000,660	1,841,868	2,118,519	1,617,215	2,028,302	1,022,695	2,808,841
Deductions:								
Interest on bonds (equipment obligations) <sup>2</sup> .....	459,763	753,328	739,620	728,012	717,821	706,027	666,923	633,030
Interest and discount on receivership certificates, etc.....	208,570	316,642	323,223	313,463	374,084	490,575	402,182	497,329
Rentals.....	219,465	92,783	66,311	90,574	83,571	57,734	53,065	104,556
Hire of equipment.....	59,366	55,486	64,752	278,353	325,928	303,985	187,065	372,829
Total deductions.....	947,164	1,218,240	1,193,906	1,400,402	1,501,404	1,558,321	1,309,835	1,607,744
Surplus from operations.....	265,309	782,451	647,962	718,117	115,810	469,981	1,347,140	1,201,097
Additions and betterments.....	65,604	148,658	595,480	536,977	765,170	110,059	94,568	224,812
Equipment obligations paid by receiver.....	237,877	245,000	275,000	224,000	221,000	426,000	291,500	202,000
Net balance.....	138,172	388,793	1,222,519	42,800	876,165	99,078	1,733,268	774,285

<sup>1</sup> Deficit.<sup>2</sup> Interest on \$8,000,000 notes not paid during receivership 1908-1916.

NOTE.—About 85 per cent of revenues represent freight earnings of freight carried from 63 to 70; 70 is classified as "Products of mines."



The revenues and expenses per mile of road of Wheeling & Lake Erie are shown in the following table:

*The Wheeling & Lake Erie Railroad Co. revenue and expenses per mile of road operated.*

[Data from Moody's Analyses of Investments.]

Year ended June 30—	Average miles operated.	Gross revenues.	Maintenance.			All other operating ex- pense.	Net operating revenues.	Total net in- come.	Taxes ac- crued.	Fixed charges.	Sur- plus.
			Way.	Equip- ment.	Total.						
1903.....	442	\$9,581	\$1,809	\$1,513	\$3,322	\$3,992	\$2,267	\$2,267	(1)	\$2,237	\$30
1904.....	442	9,782	1,554	1,623	3,177	4,231	2,375	2,534	(1)	2,390	144
1905.....	442	10,397	1,656	1,728	3,384	4,850	2,163	2,163	(1)	2,001	<sup>2</sup> 438
1906.....	442	12,033	1,793	1,972	3,765	4,746	3,522	3,522	(1)	3,177	345
1907.....	442	13,856	1,648	2,358	4,006	5,329	4,523	4,795	\$513	3,530	752
1908.....	442	12,210	1,510	2,599	4,109	5,615	2,486	2,848	570	3,044	<sup>2</sup> 1,366
1909.....	442	12,745	1,881	3,124	4,522	4,981	3,242	3,184	622	2,500	62
1910.....	457	15,209	1,678	3,041	4,719	5,732	4,758	4,950	572	3,541	837
1911.....	457	14,870	1,639	2,962	4,601	5,769	4,500	4,434	543	2,440	1,431
1912.....	457	16,407	1,907	3,068	4,975	6,049	5,383	4,852	804	2,479	1,569
1913.....	459	17,063	2,882	3,534	6,416	6,405	4,242	4,307	790	3,271	24
1914.....	459	16,639	2,173	2,787	4,960	6,531	5,148	5,284	865	3,395	1,024
1915.....	512	10,599	1,181	2,038	3,219	4,670	2,710	2,797	754	3,988	<sup>2</sup> 1,945
1916.....	512	17,938	2,263	3,433	5,944	6,297	5,697	6,440	884	3,975	1,581

<sup>1</sup> Included in fixed charges.

<sup>2</sup> Deficit.

The Wheeling & Lake Erie is primarily a freight-carrying road. More than 85 per cent of its earnings are derived from its freight business, while more than 60 per cent of its freight business is classified under "Products of mines."

The earnings of the company are very responsive to the general business condition of the territory in which it operates. Thus we find that following the panic in 1907 its gross earnings decreased from \$6,124,207 to \$5,633,645 in 1909, whereas its earnings in 1915 decreased to \$5,428,069 as compared with \$7,658,424 in 1914, and increased to \$9,184,516 in 1916.

#### 6. CAPITALIZATION ON JUNE 30, 1901, AND ON JUNE 30, 1916.

Wheeling & Lake Erie Railroad Co., as of June 30, 1901, and June 30, 1916, reported assets and liabilities as follows:

	June 30, 1901.	June 30, 1916.
<b>ASSETS.</b>		
Cost of property.....	\$50,166,474	\$56,469,376
Securities pledged.....		1,455,060
Securities unpledged.....	462,721	415,196
Other investments.....		1,209,982
Cash on hand.....	612,821	1,255
Accounts collectible.....	318,830	117,019
Receiver, Wheeling & Lake Erie.....		1,479,500
Deferred debit items.....	6,687	13,125
Profit and loss.....		5,003,237
Total assets.....	51,567,533	66,163,750
<b>LIABILITIES.</b>		
Common stock.....	20,000,000	20,000,000
First preferred stock.....	4,135,800	4,986,900
Second preferred stock.....	11,567,900	11,993,500
Bonded debt.....	13,267,000	15,000,000
Equipment obligations.....	921,129	1,298,000
Notes matured unpaid.....		10,523,333
Loans and bills payable.....	371,671	798,177
Audited vouchers.....	695,821	261,816
Miscellaneous accounts payable.....	5,182	2,035
Matured interest unpaid.....	26,198	1,079,673
Taxes accrued not due.....	49,142	
Interest and rents accrued not due.....	174,186	220,316
Surplus.....	353,504	
Total liabilities.....	51,567,533	66,163,750

The balance sheet as of June 30, 1916, does not include the receiver's accounts. On June 30, 1916, there were outstanding \$6,859,850 face value of receiver's certificates and \$1,413,000 face value of equipment obligations.

The capitalization of Wheeling & Lake Erie per mile of road is shown by the table on the following page:

*The Wheeling & Lake Erie Railroad Co. capitalization per mile of road.*

[Data from Moody's Analyses of Investments.]

Year ended June 30—	Stock outstanding and per cent of whole. <sup>1</sup>		Bonds outstanding and per cent of whole.		Rentals, capital- ized at 5 per cent.	Total gross capital balance.	Owned by com- pany as per balance sheet.	Net capital- ization.
		Per cent.		Per cent.				
1903.....	\$83,666	68	\$39,075	32	\$4,502	\$127,243	\$1,083	\$126,160
1904.....	83,666	68	39,013	32	5,245	127,924	1,107	126,817
1905.....	83,666	65	46,375	35	5,385	135,426	1,120	134,306
1906.....	83,666	63	49,535	37	5,223	138,424	1,137	137,287
1907.....	83,666	59	58,972	41	5,674	148,312	1,154	147,158
1908.....	83,666	51	79,185	49	1,393	164,244	1,172	163,072
1909.....	83,666	58	60,184	42	1,488	145,838	5,180	140,658
1910.....	80,920	56	64,109	44	4,061	149,090	782	148,308
1911.....	80,920	51	79,100	49	2,980	113,000	810	162,190
1912.....	80,920	51	79,114	49	3,963	163,997	789	163,208
1913.....	80,567	51	78,769	49	3,641	162,977	1,817	161,160
1914.....	80,557	51	77,677	49	2,566	160,810	1,817	158,993
1915.....	72,209	50	70,895	50	2,158	145,262	1,629	143,633
1916.....	72,227	51	70,895	49	4,386	147,508	811	146,697

<sup>1</sup> The decrease in stock per mile is due to increase in mileage and not a reduction in the outstanding stock. In 1903 company operated 422 miles; in 1916, 512 miles.

According to the foregoing table, the bonds per mile outstanding increased from \$39,075 in 1903 to \$70,895 in 1916. In 1903 the total capitalization per mile of road was \$126,160, and in 1916 \$146,697 per mile. The increase in the total capitalization was caused entirely by the issue of additional bonds and fixed interest-bearing obligations. We find that in 1903 the stock represented 68 per cent of the capitalization, while in 1916 it had dropped down to 51 per cent.

#### 7. REORGANIZATION PLAN.

The properties of the Wheeling & Lake Erie Railroad Co. were sold at foreclosure sale and the company reorganized under a plan dated September 20, 1916. The reorganization plan shows the capitalization as of September 20, 1916, to consist of:

#### Underlying bonds (\$15,000,000):

Lake Erie division first-mortgage 5 per cent gold bonds.....	\$2,000,000
Wheeling division first-mortgage 5 per cent gold bonds.....	894,000
Extensions and improvements mortgage 5 per cent gold bonds.....	409,000
First consolidated mortgage 4 per cent gold bonds.....	11,697,000

#### Equipment obligations (\$2,610,000):

Receiver's equipment certificates maturing 1917 to 1932, principal.....	1,312,000
Equipment sinking fund 5 per cent gold bonds, principal.....	1,298,000

Demand notes, secured by pledge of bonds of Adena R. R. Co. and mortgages on real estate in Cleveland, principal..... 755,000

Obligations fixed by decree of foreclosure—3-year 5 per cent gold notes, amount due Apr. 1, 1914 (date of decree), \$10,523,333; interest to Nov. 1, 1916, \$1,359,264..... 11,882,597

Receiver's certificates, principal..... 6,859,850

Receiver's mortgage, principal..... 3,609

Capital stock—First preferred, \$4,986,900; second preferred, \$11,993,500; common, \$20,000,000..... 36,980,400

Total fixed capitalization..... 74,091,456

Unsecured claims (additional), aggregating, with interest, approximately..... 720,500

Kuhn, Loeb & Co. and Blair & Co., reorganization managers, estimated the cash requirements to carry out the plan at \$9,984,708:

To pay receiver's certificates (exclusive of \$190,000 thereof maturing 1926) and receiver's mortgage, principal.....	\$6, 673, 459
To pay demand notes secured by bonds of Adena R. R. Co. and real estate in Cleveland, principal.....	755, 000
To pay other claims against and liabilities of the receiver, to provide working capital for the new company, and to pay interest, expenses of foreclosure and sale, and of reorganization (including compensation and allowance, counsel fees, court costs, services of engineering, accounting, and other experts, etc.), and other incorporation and reorganization disbursements and miscellaneous requirements.....	2, 556, 249

The \$9,984,708 of cash is to be raised by the payment of a \$27 assessment on each share of stock of the old company.

The reorganization plan leaves undisturbed securities in the amount of \$4,805,000, consisting of:

Lake Erie division bonds.....	\$2, 000, 000
Wheeling division bonds.....	984, 000
Extensions and improvement bonds.....	409, 000
Receiver's equipment certificates maturing 1917 to 1923.....	1, 312, 000
Receiver's certificates maturing 1926.....	190, 000

The reorganization plan calls for the authorization of the following new securities:

1. Refunding mortgage gold $4\frac{1}{2}$ per cent bonds, authorized issue....	\$50, 000, 000
2. Prior lien 7 per cent cumulative stock, authorized issue.....	11, 882, 000
3. 6 per cent noncumulative preferred stock, authorized issue.....	10, 344, 958
4. Common stock, authorized issue.....	33, 641, 300

The plan provides for the immediate issue of \$11,697,000 of the  $4\frac{1}{2}$  per cent refunding mortgage gold bonds, said bonds to be dated September 1, 1916, and mature September 1, 1966. Bonds in the amount of \$3,303,000 are reserved to retire underlying and \$35,000,000 are appropriated to meet the future needs of the company. The interest on the bonds to be issued shall be fixed by the board of directors at the time said bonds are issued, but shall in no event exceed 6 per cent.

The prior lien 7 per cent cumulative stock is to be issued in exchange for \$8,000,000 of gold notes due August 1, 1908, and the interest due thereon. This stock has preference both as to assets and dividends and may be redeemed at \$115 per share and accrued dividends on and after November 1, 1919. The stock may also be converted into common stock after November 1, 1919. It has the same voting right as the common and preferred stock.

The 6 per cent noncumulative preferred stock has a preference as to assets and dividends over the common stock. This stock is subject to redemption at \$105 per share and dividends on and after November 1, 1919; it also may be converted into common stock after November 1, 1919. The 6 per cent noncumulative preferred stock will be used to refund in part the outstanding common, first and second preferred stock.

While the reorganization plan makes provision for common stock in the amount of \$33,641,300, it further provides that additional common stock may be issued to convert the prior lien and preferred stock.

To summarize, the reorganization plan provides for the immediate issue of the following new securities:

1. Refunding mortgage gold bonds, authorized issue \$50,000,000, to be issued now.....	\$11, 697, 000
2. Prior lien 7 per cent cumulative stock.....	11, 882, 600
3. Preferred 6 per cent noncumulative stock.....	10, 344, 958
4. Common stock.....	33, 641, 300



The new securities to be issued under the reorganization plan are to be distributed as follows:

Existing securities.	Outstanding.	New securities.			
		Refunding mortgage four-and-a-halfs.	Prior-lien stock.	Preferred stock.	Common stock.
First consol 4 per cent bonds.....	\$11,697,000	\$11,697,000 <sup>1</sup> 100			
Three-year notes.....	11,882,600		\$11,882,600 <sup>1</sup> 100		
Unsecured claims, etc.....	720,500			\$360,250 <sup>1</sup> 50	\$360,250 <sup>1</sup> 50
Stock if paying \$27 per share:					
First preferred stock.....	4,986,900			\$1,346,463 <sup>1</sup> 27	\$4,986,900 <sup>1</sup> 100
Second preferred stock.....	11,993,500			\$3,238,245 <sup>1</sup> 27	\$10,794,150 <sup>1</sup> 90
Common stock.....	20,000,000			\$5,400,000 <sup>1</sup> 27	\$17,500,000 <sup>1</sup> 87½
Total.....	61,280,500	\$11,697,000	\$11,882,600	\$10,344,958	\$33,641,300

<sup>1</sup> Per cent.

The following table shows the capitalization and fixed charges before and after the proposed reorganization:

Total capitalization before reorganization.....	\$74,811,956
Total capitalization after reorganization.....	72,370,858
a. Bonds.....	15,000,000
b. Receiver's equipment obligations.....	1,312,000
c. Receiver's certificates, maturing 1926.....	190,000
d. Prior line stock.....	11,882,600
e. Preferred stock.....	10,344,958
f. Common stock.....	33,641,300
Reduction in total capitalization.....	2,441,093
Fixed charges prior to reorganization.....	1,744,950
Fixed charges after reorganization.....	768,515
Reduction in fixed charges.....	976,435
Reduction in fixed interest-bearing obligations, including receiver's certificates.....	17,950,000

## INTERSTATE AND FOREIGN TRANSPORTATION.

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TUESDAY, DECEMBER 11, 1917.

UNITED STATES SENATE,  
JOINT COMMITTEE ON INTERSTATE COMMERCE,  
*Washington, D. C.*

The joint committee met, pursuant to call of the chairman, at 10.30 o'clock a. m., at Room 320, Senate Office Building, Hon. Francis G. Newlands (chairman), presiding; Hon. W. C. Adamson, vice chairman.

The CHAIRMAN. The committee will come to order.

I will state that the committee has met this morning for the purpose of hearing the representatives of the State commissions with reference to the subjects covered by Senate resolution No. 60. Mr. Bristow, are you ready to proceed?

Mr. SIMS. Mr. Chairman, before we proceed I desire to say that I understood—and if I am mistaken about it I want to be corrected—that at the beginning of the hearings of this committee, the first one we had, Mr. Bristow and other State commissioners who were here, with the exception of Mr. Thelen, who wanted to be heard—made the distinct statement to the effect that they desired the railroad side to be presented first. They wanted to know what they proposed by way of affirmative legislation before they should be heard, and I admit I am surprised at this meeting this morning. I never heard of it; I did not know we were going to take up the State commissions in advance of the holidays, and right in advance of what we are expecting to be a very important communication from the President of the United States. As I say, I did not understand it. I understood that they did not want to be examined; they did not want to put in their case until the railway executives had finished. The railway executives have only put on a few men, very able, indeed, who submitted their whole plan. They have stated several times, as I recollect, that they would want experts to speak upon different points and none of whom have been here. So, I repeat, I did not understand this meeting at all; why this hearing is to be held at this time.

The CHAIRMAN. I will state that the assumption was that the railroads had pretty thoroughly presented their case through Mr. Thom and Mr. Kruttschnitt; the president of the Union Pacific, Mr. Lovett, Mr. Acworth, and others, and the feeling of the members of the joint committee, who remained in San Francisco after your departure, was that events were hurrying us into legislation that was covered by resolution No. 60, and that it was wise, therefore, to push the hearings and to get all the testimony in that was possible.

Mr. SIMS. That was after I left. That is the reason I did not know anything about it. Who were present at that conclusion?

THE CHAIRMAN. Senator Cummins and Mr. Esch.

MR. ADAMSON. I will state that I do not care to interfere with the hearing of Mr. Bristow, if he desires to proceed, but the joint committee adjourned at San Francisco, and the committee sent two of us away as a subcommittee. We adjourned on a formal motion, subject to call of the chairman, it is true, but I never heard a hint that there was to be another hearing until after the holidays. We went to California in order to utilize the time up to the opening of Congress, which we did, I think, to pretty good advantage. It was about the most successful and profitable visit I ever knew a committee to make. Now, I had that understanding.

Answering the chairman's statement about the railroads having concluded their case, I will say that Mr. Thom gave a list of financiers and bankers and others who were necessary to make out this case, and they were to come here. We broke the regular concatenation by going to California. I never had heard anything of this. I do not care to be dogmatic about the matter, because the committee knows that very much to my own distress, and probably to the advantage of the committee, I am going to quit and I shall not be present to make any report; but I was anxious that my successor, in anticipation, on should be present at the subsequent hearings—I tried to find him in order that he might be present, but he has not come in. He was one of the heroes who went to France recently—Mr. Stephens, of Nebraska, who will take my place on the committee, and I am very anxious that he should participate. However, he can read the record.

I shall not object to Mr. Bristow's proceeding, if he desires to proceed.

MR. SIMS. I was only trying to find out why this hearing is taking place now. It seemed to me to be in opposition to what had been the general understanding.

MR. ADAMSON. I would like also to state, in connection with the statement that events are hurrying us into legislation, that it is entirely erroneous. This is not a war committee, it is a peace committee. This committee was organized to formulate and recommend a plan for permanent operation of the transportation system. There has, of course, been legislation with respect to war, but it has not been through this joint committee; it was through regular committees of the House, and if war legislation is to be taken up it will be taken up by the regular committees of the House. I am firmly of the opinion that it is impossible for this committee to secure much valuable testimony now, during the war, because every witness has got that in his mind: he wants to talk about what he wishes to do for war instead of upon the permanent plan. It seems to me that the Executive will handle that matter, and it looks as if the only thing he can do is to take charge of the railroads and handle them until the war is over, and then hold them until the railroads and Congress do succeed in formulating a sensible and satisfactory plan on which they will serve the country in times of peace and war. That is all.

THE CHAIRMAN. I will state that the sentiment of the gentlemen that I have referred to and myself, was that events were hurrying us into legislation and it was important, therefore, that we should go over every field of inquiry as rapidly as possible. It is true that



the conference was only shared by three members of the joint committee.

I think it would be entirely proper for us to go into executive session now in order to consider whether or not the conclusion which we then reached, and which, of course, was announced by the chairman under the power given to him by the committee to fix a time for the next hearing, was proper, under the circumstances, or that conclusion may be set aside.

Mr. SIMS. I do not object to Mr. Bristow being examined, or anybody else.

The CHAIRMAN. I will first inquire of Senator Bristow if he has any objection to proceeding at this time?

Mr. BRISTOW. Mr. Chairman, I desire to make this statement: That it was the desire of the State commissioners, if the committee felt it was proper, that the railroads should make their case, and since it was the primary proposition of the railroads to curtail the authority which was being exercised by the States, that the reasons for such actions should be given, and the States then given an opportunity to reply. Upon receipt of the telegram from the chairman as to proceeding on the date fixed, we inferred that the railroads had completed their case, and we are here to submit such evidence as we have in behalf of the States, and we are subject to the desires and wishes of the committee. Whatever you gentlemen ask us to do, we will undertake to do.

The CHAIRMAN. Are you prepared to proceed now, or would you prefer to wait until later?

Mr. BRISTOW. I think that some of the gentlemen who are here and who have made preparation to be heard at this time would prefer to appear now rather than to have the hearing postponed and be called back again.

Mr. ADAMSON. I move that they be allowed to proceed.

Senator CUMMINS. That is right. There was an arrangement—I had forgotten about it—made after Judge Sims left.

I am not at all in sympathy with this idea of arranging this investigation as though it were a lawsuit, and I have never been. My reasons for wanting to go on is that the time in which we can do anything is limited; it will shortly expire, and I, speaking for myself, desire to get through as soon as possible.

Mr. ADAMSON. You know we extended the time until next December.

Senator CUMMINS. I want to get through with the taking of testimony, whether for war or peace, and end the matter, in so far as our investigation is concerned, and it does not make any difference to me whether the States are heard first or last here. I do not believe that the order of the introduction of testimony will have any effect whatever upon my mind, and I would like to go on as rapidly as we can and get through.

Mr. SIMS. I simply made my statement to explain why I was surprised. I had never heard about the arrangement.

Mr. ESCH. Mr. Chairman, when we quit at San Francisco the trend of events was such that those of us who were there felt that we ought to proceed as rapidly as possible. I think it was suggested that we ought to be getting in as much testimony before the holiday recess as possible, because after that we would be engrossed with work in

the Senate and House. With that understanding, I was not surprised when we got a notice that there would be a meeting to-day, and I feel that we ought to get in as much testimony as we possibly can before the holiday recess.

Mr. SIMS. Do you think we can keep a quorum of the committee here?

Mr. ESCH. I think we can.

Mr. ADAMSON. You know we had the time extended until next winter in order that we might have the next summer vacation in which to work.

Mr. ESCH. I am fearful that if we make any report at that time we ought to do our work during the summer recess, if we get any, and we ought to get in as much work during the sessions of the Senate and House as we possibly can.

Mr. ADAMSON. I mean, when we are actually in session, then we can not very well keep a quorum here. The Post Office appropriation bill is to be taken up to-day after general debate is over. That is one of the bills that every Member of the House is interested in, and we have to be there.

Mr. ESCH. We can get in the mornings as we did when we began these hearings. Of course, we must make sacrifices in this case.

Mr. ADAMSON. I make the motion that it is the sense of the joint committee that we are ready to proceed.

Mr. SIMS. These witnesses have come here at your request, Mr. Chairman, on telegraphic request, and we ought not to disappoint them. But I had understood that State commissions, as a general thing, did not want to be heard until the railroads have stated that they rested. They have not said it, or indicated it, and, of course, I was surprised that the State commissions had changed their purpose, or their position, in that respect. I never received any notice until yesterday morning, which was by telephone from Mr. Healy, and as I say, I was surprised, without having any sort of notice or consultation, and I did not know what it was to be about. I am simply surprised: I am not objecting to anything being done.

The CHAIRMAN. I will state that notices go to the chairman of your committee, and notices to House Members will go through him.

Mr. ADAMSON. I move that we proceed, and I hope my successor will be allowed to participate in the next hearing—Mr. Stephens, of Nebraska.

The CHAIRMAN. Mr. Bristow, you may proceed.

Mr. BRISTOW. Mr. Chairman, Commissioner Jackson, of Wisconsin, will present some matters to the committee now, if it suits your pleasure.

#### **STATEMENT OF MR. CARL D. JACKSON, CHAIRMAN OF THE RAILROAD COMMISSION OF WISCONSIN.**

Mr. JACKSON. Mr. Chairman and gentlemen, I take it, from the notice which was sent us, and also from the discussion which I have heard here this morning, that we are discussing the situation—the railroad situation in the United States at the time the committee met, not the momentous question which may be before the President or Congress to-day, and so, rather from a peace aspect

than a war aspect, I do not know whether I have anything to offer on the questions which are now presented.

I shall speak considerably as to the Wisconsin commission, but when I do so, Mr. Chairman and gentlemen, it will not be with the idea that there is something peculiar about the Wisconsin commission, or that it is more important than any other commission, but because I understand that you want to find out, and have in the record here, a detailed statement, not too long, of course, showing the functions of the State commissions. As the Wisconsin commission is the one with which I am familiar, I will speak of its work, and will do so largely on the presumption that what the Wisconsin commission does is largely typical of what other commissions do.

The Wisconsin commission was organized in 1905, and has three members appointed by the governor. They hold for six years, each man's term expiring every second year. By the terms of the act, one member must be familiar with the railroad law, and the other two members must be familiar with transportation, or some phase of the transportation feature of railroad work.

The jurisdiction of this commission covers steam, street, and inter-urban cars, telegraph and express companies. In 1907 there was also passed the public utilities law, which gives us jurisdiction over a large number of public utilities, but of that I will not speak to any extent, but will simply refer to the public utilities jurisdiction as it may have some bearing on some phases of railroad regulation.

The number of railroads in Wisconsin that are interstate is eleven; those which are wholly within the bounds of the State of Wisconsin are 26. The jurisdiction of the commission is set forth in answer to certain questions submitted by Mr. Laurence B. Finn, and I will briefly detail them.

The commission has jurisdiction over freight, passenger, express, and baggage rates, and there is service, station facilities, spur track, grade crossings, headlights, safety-device equipment, stockyards accounting; it has no jurisdiction over claims, except, of course, as they may be for refund, such jurisdiction as the Interstate Commerce Commission. It has to make reports on accidents, and it has jurisdiction over the issue of stocks and bonds; it also has jurisdiction over the adequacy of right-of-way fences, the determination of crossing of one road by another, and the method by which it is crossed, whether above or below; the reconnection of industry tracks and the putting in of industry tracks, and other questions, the crossing at grade or otherwise, the making of certificates of convenience and necessity, without which no new road can be built in the State of Wisconsin, the granting of certificates of operation of the road, after investigation and after it is built; jurisdiction over the joint use of tracks and switching connections—and when we speak of grade-crossing protection, that is one of the most important parts of the jurisdiction of the railroad commission of the State of Wisconsin—and with the suppression of grades. It also has jurisdiction over telegraphic rates and service, but has had little to do along that line. It also has jurisdiction over the right of way of railroad companies and getting sites for public elevators and warehouses.

The number of cases which come before the commission—railroad and utility—are quite a good many. I have a table which I will submit to you, and which will give full details with respect to that.



The procedure before the Wisconsin commission is very simple, indeed. There are no technicalities connected with the procedure. Complaint is made to the commission. It does not have to be technical. Often the commission assists in the making of a proper complaint if the complainants have no attorney or others to assist them. The carriers answer and the matter is speedily heard. The hearing is sometimes at the capital, at Madison, and sometimes it is very often in the local community affected, even where it is in connection with the rates. No attorney is necessary in order to appear before the railroad commission of Wisconsin on any procedure before it. A proceeding can be brought before the railroad commission on the complaint of one person, and the proceeding, therefore, is very inexpensive.

It is quite informal, and the commission desires to get at the facts, and that is all it does want, practically. As a usual thing the proceedings are speeded and all persons interested are given full opportunity to be heard and are furnished free with all transcripts of testimony; all witnesses are sworn and the reporters transcribe the testimony and furnish that free; that is, the testimony of all witnesses who appear before the commission.

All the acts of the railroad commission are subject to review by the circuit court of Dane County, Wis., where the capital is situated, and may go to the supreme court of the State. The practice of the commission is such as to make an appeal to the courts or review of our action by the courts a perfectly feasible and easily possible matter by the courts.

Quite a few cases have gone to the courts and one or two cases to the Supreme Court of the United States. The cases which have gone to the courts have been questions generally involving some constitutional question. I think the only railroad case, practically, that has been to the supreme court was the one which questioned the constitutionality of the railroad act and which is known as the Sault Ste. Marie Railroad case, which is one of the leading cases in the country on constitutionality generally.

MR. DOREMUS. You mean the Supreme Court of the United States?

MR. JACKSON. I am not sure whether it went to the Supreme Court of the United States or not. It has been decided several times by our supreme court. We have one or two cases pending now. But wherever there have been appeals, I think the commission has been sustained in all of them, except in one case which was insignificant—a question purely as to jurisdiction under the local statute relating to the jurisdiction of the commission to exercise authority over some drains that went through the highway. They held there we were without jurisdiction, and without any incentive from the railroad commission itself the legislature promptly gave that jurisdiction to the commission. In fact, the commission has rather to fight against any jurisdiction than ask for it. The tendency of the legislature is to put very many serious problems before the commission of the State. No rate case that I know of has ever been tested on appeal there—that is, any decision on a rate matter. If a railroad rate matter has ever been taken into the courts there by the carriers or others, I never heard of it.

SENATOR ROBINSON. How long has your commission been exercising jurisdiction over the railroads?

Mr. JACKSON. Twelve years.

Senator ROBINSON. That is very remarkable.

Mr. SIMS. Is a rate question reviewable by the courts? Is it subject to court review?

Mr. JACKSON. Absolutely.

Mr. SIMS. As to the merits and validity of the railroad rate, and as to the power or authority of the commission to make it?

Mr. JACKSON. The presumption is that the findings of fact by the commission are correct, but they are absolutely subject to rehearing and new testimony in the circuit court. The proceeding is one not along certiorari lines, where jurisdiction would be involved, but is to give complete review and the opportunity to offer new testimony.

Mr. SIMS. Is the court empowered to substitute a rate for the one the commission has authorized?

Mr. JACKSON. It could do so, if it saw fit; yes, sir. We have had other rate cases relating to public utilities in the courts. One has gone to the Supreme Court of the United States on a constitutional question—the question whether the franchise provision in any street railway franchise took away the jurisdiction of the railroad commission to make other rates. That is one of the leading cases, I think, in the Supreme Court of the United States. The circuit court provision on appeal, I should state, is that upon new evidence introduced, it should be sent back to the commission to then go over it in view of the new testimony introduced. The practice, however, has been, with one or two exceptions—and then only where both have requested it—for the commission in all cases, by the Attorney General, its attorney, to waive that right and ask the court to decide, if any new testimony was introduced.

We have felt, as members of the commission, that we would rather have the court's independent judgment than to have any new evidence considered, etc. That has always been done by stipulation.

This letter, that I hold in my hand, was sent out before Mr. Walter Alexander—who was then chairman of the commission—resigned to become superintendent of motive power of the Chicago, Milwaukee & St. Paul Railroad. If I am not taking up too much of your time, I should be glad to read some of the answers, as they would be my answers and the answers of the commission, to some of these questions—

Senator CUMMINS. In connection with what you have just stated, I would like to ask you whether the shipper in Wisconsin has the right to appeal to the courts from the decision of the commission fixing rates?

Mr. JACKSON. Yes; I should say he had.

Senator CUMMINS. And is the case then tried upon its merits in court?

Mr. JACKSON. We never have had such a question arise, but they might do so. I suppose what you are getting at is the question whether there is such a thing as getting an appeal from negative orders, perhaps, from the Wisconsin commission.

Senator CUMMINS. What I wanted to get at was whether the jurisdiction of the courts in Wisconsin over the ruling of the commission respecting rates was substantially the same as the jurisdiction of the Federal courts over the Interstate Commerce Commission?

Mr. JACKSON. No; it is broader, I should say. That is my idea of what the Federal court said recently. I do not know whether the new amendment to the Interstate Commerce act gave any appeal to the Federal courts, as I understand it, where the order was negative.

Senator CUMMINS. Have the courts in Wisconsin jurisdiction to fix a rate for the future for a railroad?

Mr. JACKSON. I should say that their jurisdiction is complete. But if they felt that the rates fixed by us, or the refusal to fix a rate was wrong, the courts then would have that right, probably. But there is this to be said, that if what is done by the commission is within fairly reasonable bounds, I do not think it would be disturbed, even though the court might have a somewhat different view, or perhaps make a somewhat different rate.

Mr. SIMS. Your courts, then, do undertake to exercise legislative powers?

Mr. JACKSON. They might do that, but that question has never come up, because of this fact: That there has not been, as far as I know, an appeal by a shipper made from us—that is, from a decision by the commission fixing a rate. Suppose, for instance, the commission of Wisconsin would refuse to fix a reciprocal rate in that State—you understand what that is, refuse to order that the carrier should deliver on its own terminals the freight which has come into the switching yards from a line of another carrier. We have always been of the opinion, although the matter has never been tested out, that the court would have a right to order such rate to be put in; whether they had actually fixed a rate, or made a finding, or sent it back to the commission to be fixed, I do not know. We have never had that question come up, and we have had very little litigation in Wisconsin on such matters. On other matters, relative to grade crossings—new propositions which were legislative and broad—we have had appeal, and we rather welcome it, in order to find out what the law was and what jurisdiction was given us. But the question with regard to rates is very clear. We have a large force—an engineering force—and we have a traffic force and a statistical force. Our statistical accounting force is quite complete, and I think has a fairly up-to-date knowledge of railroad statistics and the cost analysis thereof. I may say that in fixing rates in Wisconsin, under predecessors of myself, the cost accounting has been of considerable use, and has been used as one of the elements of fixing rates in the State of Wisconsin.

Now, there may be one or two important questions that I should take up, to which you would like to have the answers of the commission, and as they would be much more brief than if I should attempt to state them orally, I will just read one or two in getting these questions before you. I will file later a statement of the number of cases in one year before us. We have what is called "formal" and "informal" cases. A formal case is where it actually goes to hearing and testimony is taken, and the informal case is where a complaint comes in—it may be on a postal card or otherwise—which is a case which would lead to a formal case if not adjusted. Those cases are very often taken up by correspondence, telephone, or consultation with the railroad officials. The majority of cases are adjusted without the necessity of formal action and formal proceedings. Those are called informal cases, and the number of informal



and formal cases together—the railroads and the utilities and all activities before the railroad commission—amounts to about 1,800 a year—from 1,600 to 2,000. That does not include the informal cases, of which we make a tabulation here—the thousands upon thousands of things which come in by letter or by some informal consultation, which are often taken up and adjusted in half an hour by telephone or by correspondence. The formal cases are those which are heard. The informal cases are those which would have to be heard if they were not adjusted. All other matters, which run into thousands, are treated just as correspondence is, and are not in the tabulation which will be handed in.

Our experience has been that it is the duty of the commission, and that it is for the public benefit that as many matters as can be adjusted without protracted procedure, should be so adjusted, and we act on the principle, both for the benefit of the carrier and for the benefit of the shippers and others who are interested.

One of the questions here propounded is this:

“State what, if any, difference there is between State and interstate rates beginning and ending in your State for similar distances. That is to say, state whether or not local intrastate rates are higher or lower in your State than that portion of the intrastate rate which forms a part of the through interstate rate?”

I am going to speak of that somewhat later, but I will read you the answer of Mr. Alexander, which I think is in substance correct, although there are also some other considerations in connection with it which I would like to call to your attention. His answer is:

“Generally speaking, intrastate rates beginning and ending in this State are the same as interstate rates or the Wisconsin proportion of interstate rates over the same distance or between the same points. There are, however, many exceptions to this where proportional rates that are lower than intrastate rates apply to and from certain rate breaking points, such as Milwaukee, Manitowoc, Green Bay, Pembine, etc. Such proportional rates apply from and to comparatively few points only.”

I shall speak later of the level of rates in Wisconsin, so I shall not amplify that here.

Senator CUMMINS. Just one moment, in order that I may understand that. Do you mean the mileage proportion of an interstate rate or the proportionate rate established by the railroads themselves?

Mr. JACKSON. What Mr. Alexander had in mind was this, I think: There have been for years what are called proportional rates. Those proportional rates were not really intrastate rates. I do not think Mr. Alexander quite understood that they are lower than the State rates and are used proportionately mostly for an interstate haul.

I will take, for example, one situation: Traffic comes across Lake Michigan to some extent, and also largely it moves through the crowded terminals of Chicago when it comes from the eastern trunk line territory. When it moves across Lake Michigan, it comes across on the interstate rate, made up to Manitowoc, if it comes by car ferry, or from Milwaukee or Kewaunee—those are the three points at which the car ferry touches—and from there on to any interior point the rate would be made up, the rate from those particular points to the interior points, plus the rate from the eastern points

to Manitowoc, Sheboygan, or otherwise. Those rates, which make up the rate in Wisconsin, are called proportional rates. At the time this was written the proportional rates probably were local State rates applicable to that movement from Manitowoc and from those places to interior points. It is still so, as to a great many commodities. As to the class rate, it is not so now. For instance, the short distance from—we will take the point that I come from, or near that—the short distance to Manitowoc and Neenah would be the rate which would make up the proportional class rate. That is not so to-day. They still publish the old proportional, although the class rate from Manitowoc to that particular point is lower. To that point class rates were held up in Wisconsin in order that that short distance higher rate would be big enough to cover the movement from Milwaukee to that particular point.

Senator CUMMINS. I am sorry to violate our rule, but I want to understand that, with the permission of the committee.

The CHAIRMAN. Certainly.

Senator CUMMINS. Take a simpler case—the rate of the Chicago & North Western from Chicago to Madison, a rate from the State line over the North Western to Madison—

Mr. JACKSON. No; they would not be on the proportional distance.

Senator CUMMINS. You do not mean that the State rate is any particular portion of the through rate in that case?

Mr. JACKSON. Not that; I would not say that for a moment. I will show you how that works out. I have it right here. I had not come to it among my papers. I shall hand it to the committee. It will give you a very good idea of the situation. That could not be a State rate which would be proportional on a distance of that kind. There are two terminals in Chicago that have to be handled, just as there are two terminals for an interstate rate.

Senator CUMMINS. I wanted to clarify that, that your answer does not include such a case as that.

Mr. JACKSON. No. I think what Mr. Alexander meant by that was that the rates, as such, for the same distance, were practically on a level of an equal distance interstate. But even in that he was somewhat mistaken, as I will show you later. Perhaps as to the class basis, I can show you at once here something that will present it to you visually, so that you may be enabled to see it without the slightest difficulty, what the level is on the class. It would be impossible to go into commodities. This is quite interesting, and if you will pardon me a minute, on that particular point, I would like to call it to your attention specifically.

Senator CUMMINS. I had no intention to interrupt the arrangement of your argument as you are presenting the matter.

Mr. JACKSON. I was going to speak of it anyhow, later, Senator. I find that I am not able to lay my hands on it at the present time, but it is an exhibit on which will be found what I will present to you, and which will show the actual class rates from Chicago into Wisconsin, we will say, to any point, as they are in force and effect. It was not made up by me, but was made up by Mr. Berry, I think, of the Chamber of Commerce, of the Merchants' and Manufacturers' Association of Milwaukee. Right near, or in another column, will be found what the rates would be from Chicago to the same points if the Wisconsin distance scale on classes were in effect, and you will find

that the only difference will be that the Wisconsin rates are slightly higher, but not much so.

I might as well, while I am on that particular subject, give you some more illustrations of the general level of rates in Wisconsin, and if you will permit me, I shall be glad to do so at this time.

We have in Wisconsin a statement about which there can be little question, of what the ton-mile rates are, and the rates per ton-mile for intrastate traffic in the State of Wisconsin alone on the different railroads. We also have what the ton-mile earnings are for interstate movement in the State of Wisconsin, and we also have what the ton-mileage earnings are, and the mile earnings for those two, and also for the whole line in the State of Wisconsin.

Now, it would be unfair to present these figures as meaning what might be taken from them—that the rates in Wisconsin are very much higher, or higher than they ought to be. You will see that the reason I explain that is that the ton-mile earning basis is not the final criterion of whether the rates are proper or not. The hauls in Wisconsin would be shorter than the hauls interstate, and as there must be two terminals spread over the rate, including the movement, the longer the movement the more the terminals are spread out, and hence the ton-mile earnings on the long movement would be lower than on a short movement. Hence it would be expected, probably, that the ton-mile earnings on an intrastate movement in Wisconsin would be higher than the interstate. It is quite interesting, in that way. The final test is as to whether they are paying as much on their movement and business in intrastate business, in the State of Wisconsin, on that part of their property devoted to intrastate business, as they would be otherwise. They are not far apart. I think intrastate, when it comes to actual earnings, would probably be slightly higher than the interstate. But that is a very difficult thing to get at. There are many things about the consignment, the earnings and the cost, etc., which are subject to so much discussion that I have not the desire to introduce them here.

These, however, are taken from the statements of the railroads themselves to the Wisconsin commission in a case before it. The intrastate ton-mile earnings in the State of Wisconsin, for intrastate movement only on the Chicago & North Western Railroad, is 1.19 cents per ton-mile. For interstate in the State of Wisconsin it is 0.73 cents; for the whole line, including the State of Wisconsin, it is 0.83 cents. On the Chicago & Milwaukee it is 1.32 cents for intrastate in Wisconsin; for the whole line, 0.78. It is also given for the Chicago, St. Paul & Omaha, and the Wisconsin Central—and I will say that the Omaha does not show up very well. The Omaha carries many logs in the northern part, in the State of Wisconsin, and has a big tonnage. When the logs are hauled by the Omaha in the State of Wisconsin they are hauled on the theory that it makes its earnings entirely out of the manufactured product, a large part of which is interstate as well as intrastate—the lumber and the manufacture of the product. But in this exhibit they have those low rates on logs—I am not saying whether they are too low or too high, but they are the lowest rates in the State of Wisconsin and are entirely voluntary.



Mr. ESCH. Will you have those schedules printed as part of your hearing?

Mr. JACKSON. If the committee desires it, yes, sir.

Mr. ESCH. I think they would illuminate your testimony.

(The schedules referred to are here printed in full, as follows:)

*Comparative statement of tons, ton-miles, average haul and revenues, total per ton and per ton-mile of revenue freight, Wisconsin intrastate, Wisconsin interstate, totals for Wisconsin, and totals for entire line: C. & N. W. Ry., C. M. & St. P. Ry., C. St. P. M. & O. Ry., Wis. Cent. Ry., and M. St. P. & S. S. M. Ry., year ended June 30, 1915.*

	Tons.	Ton-miles.	Average haul-miles.	Freight revenues.		
				Total.	Per ton.	Per ton-mile.
Chicago & North Western:						
Wisconsin—				<i>Dollars.</i>	<i>Dolls.</i>	<i>Cents.</i>
1. Intrastate.....	5,172,343	384,319,532	74	4,558,064	0.88	1.19
2. Interstate, Wisconsin portion of.....	<sup>1</sup> 17,382,574	<sup>2</sup> 1,605,030,016	<sup>3</sup> 92	<sup>4</sup> 11,710,378	<sup>5</sup> .67	<sup>6</sup> .73
3. Total (1 and 2).....	22,554,917	1,989,349,548	88	16,268,442	.72	.82
4. Whole line, total.....	40,399,215	6,216,280,599	154	51,923,861	1.29	.83
Chicago, Milwaukee & St. Paul:						
Wisconsin—						
5. Intrastate.....	4,620,556	299,149,703	65	3,943,162	.85	1.32
6. Interstate, Wisconsin portion of.....	<sup>1</sup> 10,584,318	<sup>2</sup> 1,309,703,224	<sup>3</sup> 124	<sup>4</sup> 9,233,013	<sup>5</sup> .87	<sup>6</sup> .70
7. Total (5 and 6).....	15,204,874	1,608,852,927	106	13,176,175	.87	.82
8. Whole line, total.....	32,959,392	8,163,988,375	248	63,953,799	1.94	.78
Chicago, St. Paul, Minneapolis & Omaha:						
Wisconsin—						
9. Intrastate.....	1,226,849	111,749,285	91	875,752	.71	.78
10. Interstate, Wisconsin portion of.....	<sup>1</sup> 4,458,933	<sup>2</sup> 672,297,518	<sup>3</sup> 151	<sup>4</sup> 4,606,800	<sup>5</sup> 1.03	<sup>6</sup> .69
11. Total (9 and 10).....	5,685,782	784,046,803	138	5,482,552	.96	.70
12. Whole line, total.....	8,794,488	1,336,106,367	152	11,523,103	1.31	.86
Wisconsin Central:						
Wisconsin—						
13. Intrastate.....	1,689,536	200,504,707	119	1,692,144	1.00	.84
14. Interstate, Wisconsin portion of.....	<sup>1</sup> 3,737,312	<sup>2</sup> 697,053,953	<sup>3</sup> 187	<sup>4</sup> 4,675,413	<sup>5</sup> 1.25	<sup>6</sup> .67
15. Total (13 and 14).....	5,426,848	897,558,660	165	6,367,557	1.17	.71
16. Whole line, total.....	6,038,588	1,038,477,383	172	7,237,916	1.20	.70
Minneapolis, St. Paul & Sault Ste. Marie (except Wisconsin Central):						
Wisconsin—						
17. Intrastate.....	467,244	18,744,814	40	244,343	.52	1.30
18. Interstate, Wisconsin portion of.....	<sup>1</sup> 3,384,395	<sup>2</sup> 246,625,707	<sup>3</sup> 73	<sup>4</sup> 1,560,236	<sup>5</sup> .46	<sup>6</sup> .63
19. Total (17 and 18).....	3,851,639	265,370,521	69	1,804,579	.47	.68
20. Whole line, total.....	7,312,385	1,525,833,072	209	12,576,374	1.72	.82
Totals for above roads:						
Wisconsin—						
21. Intrastate.....	13,176,528	1,014,468,041	77	11,313,465	.86	1.12
22. Interstate, Wisconsin portion of.....	<sup>1</sup> 39,547,532	<sup>2</sup> 4,530,710,418	<sup>3</sup> 115	<sup>4</sup> 31,785,840	<sup>5</sup> .80	<sup>6</sup> .70
23. Total (21 and 22).....	52,724,060	5,545,178,459	105	43,099,305	.82	.78
24. Whole line, total.....	95,504,068	18,280,685,796	191	147,215,053	1.54	.81

<sup>1</sup> The total number of tons of interstate shipments, originating in, terminating in, or passing through Wisconsin.

<sup>2</sup> The ton-mileage in Wisconsin only of interstate shipments, ton mileage of same shipments outside Wisconsin not included.

<sup>3</sup> The average haul in Wisconsin of interstate shipments, the haul outside Wisconsin not included.

<sup>4</sup> The Wisconsin portion only of the revenue from interstate shipments touching Wisconsin.

<sup>5</sup> The Wisconsin proportion only.

<sup>6</sup> Approximately the true revenue per ton-mile for the entire haul of the interstate shipments since based on the total of the Wisconsin proportions of the total revenues from these shipments and the actual Wisconsin part of the ton-mileage. It does not represent the true revenue per ton-mile for the average mileage shown which is only the Wisconsin part of the haul.

Sources.—Whole line figures from annual reports of separate railroad companies to railroad commission of Wisconsin for year ended June 30, 1915.

Wisconsin—Total, i. e., the sum of the intrastate and the Wisconsin proportion of the interstate touching Wisconsin, same source as whole line.

Wisconsin—Intrastate from exhibits of separate railroad companies in Wisconsin class rate case.

Wisconsin—Interstate, same source as intrastate.

Senator CUMMINS. I can not avoid interjecting a remark, although it is ignoring a fundamental principle which you have just announced, that the statisticians are able to show that the railroad rates in Germany are higher than they are in the United States.

Mr. JACKSON. Yes, that would be so because the hauls are very much shorter.

Senator CUMMINS. Certainly.

Mr. JACKSON. If you take 10 miles on a carload lot, and two terminals, you ought to be able to get a ton mileage return on that that would be two or three or four cents, maybe, thereon. It would not be a fair test.

Mr. SIMS. Senator, is it not also a fact that the greater proportion of this low-grade tonnage traffic goes by water in Germany than in this country?

Senator CUMMINS. Yes; that length of haul is absolutely indispensable as a factor in comparing rates—that is, the ton-mile rates?

Mr. JACKSON. Yes, and there is another factor which might be taken into consideration, and that is that the rates vary, of course, according to the nature of the commodity and the loading; you have got to take the loading in connection with it, and also the nature of the commodity. So it is only a very superficial test of rates because as everybody knows who knows anything about rate making, the difference between ton-mile earnings is such as to show pretty fairly that there can not be anything like a comparison with the interstate rates in the State of Wisconsin, and this is offered for that purpose. As you will see, the hauls are very much different. The length of haul intrastate in the State of Wisconsin is 74 miles on the Northwestern as against 154 average haul on the whole line. This is all given in this tabulation. The mile earnings in the State of Wisconsin on the Northwestern, for intrastate business alone are, according to the Northwestern figures, \$3,653, and according to our figures, \$4,039 while the interstate earnings is \$3,000.

I will also submit these exhibits, which will show that the haul per mile alone, and that the earnings on intrastate business in Wisconsin is about \$1,000 higher than the whole line earnings per mile on the different roads.

The CHAIRMAN. That paper will be incorporated in the record.

(The paper referred to is here printed in full, as follows:)

*Comparative statement of operating revenues, operating expenses, net operating revenues—Totals and per mile operated, whole line and Wisconsin, C. & N. W. Ry., C., M. & St. P. Ry., C., St. P., M. & O. Ry., and Soo system, year ended June 30, 1915.*

	Average miles of road operated.	Total operating revenues.	Total operating expenses (excluding taxes).	Total net operating revenues.	Per mile of road operated.		
					Operating revenues.	Operating expenses.	Net revenues.
Chicago & North Western:							
Whole line.....	8,107.82	\$80,779,675	\$56,371,573	\$24,408,102	\$9,963	\$6,953	\$3,010
Wisconsin.....	2,170.03	24,282,228	<sup>1</sup> 15,517,414 <sup>2</sup> 16,354,357	<sup>1</sup> 8,764,814 <sup>2</sup> 7,927,871	11.190	<sup>1</sup> 7,151 <sup>2</sup> 7,537	<sup>1</sup> 4,039 <sup>2</sup> 3,653
Chicago, Milwaukee & St. Paul:							
Whole line.....	10,052.58	91,435,374	61,971,701	29,463,673	9,096	6,165	2,931
Wisconsin.....	1,815.98	20,217,325	12,972,971	7,244,354	11,133	7,144	3,989
Chicago, St. Paul, Minneapolis & Omaha:							
Whole line.....	1,752.81	17,841,348	12,107,598	5,733,750	10,179	6,908	3,271
Wisconsin.....	781.14	8,247,142	<sup>1</sup> 5,227,360 <sup>2</sup> 5,676,315	<sup>1</sup> 3,019,782 <sup>2</sup> 2,570,827	10.558	<sup>1</sup> 6,692 <sup>2</sup> 7,267	<sup>1</sup> 3,866 <sup>2</sup> 3,291
Minneapolis, St. Paul & S. Ste. Marie (including W. C. E.)							
Whole line.....	4,102.76	27,763,225	17,811,374	9,951,851	6,767	4,741	2,426
Wisconsin.....	1,394.64	11,062,453	7,034,747	4,027,706	7,932	5,044	2,888
Totals of above roads:							
Whole line.....	24,015.97	217,819,622	148,262,246	69,557,376	9,069	6,173	2,896
Wisconsin.....	6,161.79	63,809,148	<sup>1</sup> 40,752,492 <sup>2</sup> 42,038,390	<sup>1</sup> 24,056,656 <sup>2</sup> 21,770,758	10.356	<sup>1</sup> 6,614 <sup>2</sup> 6,823	<sup>1</sup> 3,742 <sup>2</sup> 3,533

<sup>1</sup> Wisconsin commission, special analysis for Wisconsin class rate case.

<sup>2</sup> Railroad companies, special analysis for Wisconsin class rate case.

Average miles of road operated, from annual reports of separate railroad companies to Railroad Commission of Wisconsin for year ended June 30, 1915.

Operating revenues, whole line (same as above).

Operating revenues, Wisconsin (same as above).

Operating expenses, whole line (same as above).

Operating expenses, Wisconsin, Chicago, Milwaukee & St. Paul and Soo, from annual reports to Railroad Commission of Wisconsin and accepted by both railroads and Wisconsin commission in Wisconsin class rate case.

Chicago & North Western and Chicago, St. Paul, Minneapolis & Omaha.

Mr. SIMS. In that connection—I do not like to break in upon your argument, but sometimes a suggestion comes up, and this one seems apropos at this particular point. I would like to ask you a question as a State commissioner. Is it not also a fact that there are many purely intrastate railroads that do get a portion of the through haul charge, and that that proportion exceeds the relative equal proportion of the entire through haul, and if they do not in that way get an advantage in the local rate by dividing—getting a portion of the through haul that would not be actually proportional to the whole through haul charges?

Mr. JACKSON. I suppose they would get a much larger amount, of course.

Mr. SIMS. That is what I say.

Mr. JACKSON. They would have to, because if they took a mileage proportion—gentlemen, you know what the rule is among the railroads on divisions, that usually, even though the originating line is very short as compared with the whole line haul, it is generally never less than 25 per cent of the entire earnings of the line—that is the railroad division rate, I think.

Mr. SIMS. That would make the long haul a little less proportionately and the small haul a little greater.



Mr. JACKSON. Oh, yes; that might possibly be; but suppose we just go to a junction point on a local road. Take, for instance, a logging railroad—some of those roads I have referred to, I think 36 of them—that put in different logging apparatus, but there are also industrial railroads.

Mr. SIMS. And share in the through haul?

Mr. JACKSON. Yes, sir. That is what a division is. It is a matter that is fixed among themselves. But where they move to a junction point, and then go outside of the State, even a short movement wholly within the State on that particular line, it is an interstate movement, and it is not on the return here as part of the state movement. It goes as an interstate movement.

One of the next questions is:

What orders of your commission have produced conflict of authority with the Federal Government or with sister States?

I will say that there has not, to my knowledge, ever been any conflict. Certainly we have never been before the Interstate Commerce Commission, nor has any proceeding been brought before the Interstate Commerce Commission which has set up that the rates locally in the State of Wisconsin are discriminatory as to interstate rates. There has been no conflict between the Interstate Commerce Commission and the State commission and I do not know of any complaint in that regard. The State commission is perfectly aware of the level of rates as to intrastate and interstate, and has that in mind in fixing the rates in the State of Wisconsin. There has been no trouble that has ever grown out of it, and no case either before the courts or before the Interstate Commerce Commission.

Mr. Alexander, now, as I say, with the St. Paul road, asked the question as to whether he thought it was desirable that all control of activities of railroads should be centered in the central government, and I read the answer to that question, which is as follows:

I do not believe it would be wise to centralize all of the power of regulation and control of common carriers exclusively in the Federal Government. The Federal Government, I believe, could better handle all questions of stock and bond issues for interstate carriers than the various State commissions. As far as rates are concerned, both intrastate and interstate, I firmly believe that if it could be arranged so that the State commissions would work in close conjunction and harmony with the Interstate Commerce Commission, that much of the complaint of both the carriers and the shipping public would be eliminated.

We have had no complaint in Wisconsin, of course, in respect to that.

I would not favor taking away from this commission all jurisdiction over intrastate rates and give such jurisdiction to the Interstate Commerce Commission.

Mr. DOREMUS. Who is Mr. Alexander?

Mr. JACKSON. He was formerly master mechanic of the Chicago, Milwaukee & St. Paul Railroad, and two or three years ago he was appointed a member of the Wisconsin commission by Gov. Philipp, and held that office about a year and a half, and became chairman of that commission on the retirement of Mr. Erickson. Mr. Erickson retiring to engage in private business, Mr. Alexander resigned about six months ago to become superintendent of motive power service of the Chicago, Milwaukee & St. Paul Railroad.

Mr. SIMS. This testimony was given while he was a member?

Mr. JACKSON. His answer was given while he was a member of the National Association of Railroad Commissions, while he was chairman of the railroad commission.

I will just briefly refer to some of the other jurisdictions of the commission so you may see how our activities are engaged, but I will not take up your time on this.

In the regulation of utilities this relates both to services and rates and covers heat, light, water power, and telephone companies. If this committee desires, I can file something giving the entire jurisdiction of the commission along that line. But I will pause in this connection and speak of the utilities largely, because that is one thing which I believe is highly significant. The public utilities are regulated in Wisconsin on the theory that monopolies are desirable, that competition is undesirable, and the laws of the State of Wisconsin are such that any duplication of public utilities is impossible without the permission of the railroad commission, and certificates of convenience and necessity. The theory on which utilities are regulated in the State of Wisconsin is that it is cheaper for one company to efficiently do the work which can be done than it is for two competing companies who must be remunerated by the public somewhere, and the theory also is that if you have proper regulation you get better service for the public from one properly regulated monopoly at cheaper rates than you do from competing monopolies whose rates are fixed by competition, and that in the end the public must pay for the results of competition. So we have antiduplication acts on that theory, and I think it is successfully working out in Wisconsin except in those instances where the utilities were in a bad shape when the commission itself went into existence and took over jurisdiction of them.

In addition to the regulation of utilities, we regulate water powers in the State of Wisconsin, and the railroad commission has authority and does grant franchises to build dams and divert water powers in the State.

Mr. SIMS. Not on navigable streams?

Mr. JACKSON. On all streams except those which are under the authority of the United States Government.

The VICE CHAIRMAN. Of course we grant franchises, but Congress has to grant permission to build them.

Mr. JACKSON. Certain waters in Wisconsin, like the Fox River, are wholly under the jurisdiction of the War Department of the Federal Government, and we exercise no jurisdiction there, but on all others practically, and there is a great deal of water power in Wisconsin, it is one of our great resources, and we are granting now franchises to develop water power and many of them. It is a little difficult, because we have to value that water power, dam sites, and so forth, before the franchise is taken.

Senator CUMMINS. How do you determine what streams the Federal Government may take jurisdiction of?

Mr. JACKSON. I think that is either fixed by the United States statutes or the acts of the Secretary of War himself.

Senator CUMMINS. There is, I think, no statute upon that, sir. There was a bill passed at one time that attempted to define navigable streams, I mean a bill passed in the Senate, but I think it did not become a law.

The VICE CHAIRMAN. Some are navigable by nature and some are navigable by act of Congress. The Secretary of War does not take jurisdiction unless one of them appears in that category. There is a general dam law already.

Senator CUMMINS. It does not define or attempt to define what a navigable stream is.

Mr. ADAMSON. But the act of 1899, in the river and harbor law, gives the States the right to go ahead and authorize the construction of dams with the approval of the Secretary of War on streams wholly within the State.

Mr. SIMS. Whether navigable or not?

The VICE CHAIRMAN. Whether they are navigable or not. Congress does not touch any that are not navigable.

Senator CUMMINS. A very distinguished Member of Congress, formerly a Member of both the House and the Senate, was of the opinion that every drop of water which fell from the clouds was a navigable stream.

The VICE CHAIRMAN. That is running it back to first principles, which sometimes results in a reductio ad absurdum.

Mr. SIMS. What about the clouds before it becomes water on the earth?

The VICE CHAIRMAN. Some of those little streams I saw in the West did not originate in heaven. They evidently came from the other regions, judging from their aspects.

Mr. JACKSON. I have found here this exhibit which I was trying to find a while ago, and which shows the rates from Chicago to different points picked out elsewhere, and what those rates would be for the first four classes. I will say as to the other classes, the rates in Wisconsin would, in all instances, be higher. That is what they would under our distance tariff. If you care to look at this exhibit, I think it will show the level of rates very well on classes.

The CHAIRMAN. Let that go into the record at this point.

(The exhibit referred to is here printed in full, as follows:)

From Chicago to—	Miles.	1	2	3	4
Sparta.....	237.6	50	42	33	22.5
Watertown.....	129.7	36.66	30.08	25	17.5
Fond du Lac.....	147.42	40	33	28	20
Wausau.....	265.1	50	42	33	23
Appleton.....	184.2	43	36	29	20
New London.....	195.5	43	36	29	23
Grand Rapids.....	213.9	50	42	33	23
Marshfield.....	269.4	50	42	33	23
Antigo.....	262.9	58	48	38	24
Rhineland.....	309.6	60	50	40	25
La Crosse.....	262.8	50	42	33	23

*Wisconsin scale for same distances.*

	1	2	3	4
Sparta.....	51.6	43.9	34.4	23.8
Watertown.....	36.6	31.1	24.4	18.3
Fond du Lac.....	39.4	33.5	26.3	19.7
Wausau.....	54.9	46.7	36.6	24.3
Appleton.....	44.3	37.7	29.5	22.2
New London.....	45.7	38.8	30.5	22.9
Grand Rapids.....	52.9	45	35.3	24
Marshfield.....	54.9	46.7	36.6	24.3
Antigo.....	54.9	46.7	36.6	24.3
Rhineland.....	59.7	49.5	39.3	25
La Crosse.....	54.9	46.7	36.6	24.3



Mr. JACKSON. In regard to water powers in Wisconsin, whoever takes out water power now and has not got a franchise from the State government must get in his application to the railroad commission that at the end of thirty years that water power can be purchased by the State of Wisconsin at a valuation. We fix a part of that valuation at the time the franchise is given. There are applications before us now for very large developments in the State.

In addition to that we have jurisdiction over stock and bond issues of public utilities and railroads. Some of the railroads are incorporated in Wisconsin, such as the St. Paul & Milwaukee road, the Chicago & North Western.

As to public utilities, we exercise the jurisdiction that is exercised by most commissioners. As to railroads, and the authority over stocks and bonds, we believe that it is desirable that the Federal Government supervise the issue of stocks and bonds of a Federal character. That is the position which was taken by the commission ever since I have been on it, and I think the position I took in San Francisco two or three years ago. I brought it up myself and had a long talk with Judge Clements of the Interstate Commerce Commission on it, and he was there practically to speak on that one subject in San Francisco.

Senator CUMMINS. Mr. Jackson, under your law does the commission in passing upon the issuance of securities, determine the desirability of the expenditure, or is that entirely in the hands of the public utilities commission?

Mr. JACKSON. I do not think it would be entirely in their hands. That authority is not specifically given to us in the stock and bond law, but we have other provisions in the law which permits us to fix the proportions between stocks and bonds, and other provisions which we do know about and which we do use, anyway, and we take that into consideration in issuing stocks and bonds. But on the other hand if the carrier comes before the railroad commission of Wisconsin and sets out in its application for authority to issue stocks and bonds that it has done so and so, as provided by the statute, and that it needs so and so, as provided by the statute, I presume they could mandamus us to issue that whether we thought it advisable or not. So they are issued. For instance, a road incorporated in Wisconsin runs to the Pacific slope and they have had to come before the commission for authority to issue stocks and bonds for that purpose. Before I was on the commission they made the application in accordance with law, and it was granted, but we think that a matter of that kind should be supervised by the Interstate Commerce Commission, or some Federal body.

The next is, public utilities of all kinds are all subject to government ownership in Wisconsin by application to the Railroad Commission of Wisconsin, after a vote by the common council or other municipality which wishes to take over those public utilities. Several have been taken over. They are valued by the railroad commission of the State and then taken over. I do not think there is a growing tendency to take over public utilities in Wisconsin. I am inclined to think that the tendency is rather the other way. The utilities which are taken over are mostly waterworks companies, and that seems to be a function which can be especially performed by the cities on account of so many other considerations, better perhaps

by the municipalities than by a private corporation in some instances, and they have been taken over largely by the cities. Some are still not taken over, but most of them were taken over or built by the cities before the railroad commission was in existence.

On the other hand, the electric companies owned by the municipalities are not doing well, and very few of those, none that I know of, are being taken over. There was one application which has been abandoned in one of the cities of Wisconsin since I have been on the commission. Of course there is a good reason for that. Furnishing electricity can be done on a large scale much cheaper than on a small scale, and there is an interweaving of the different cities and a tendency that way, namely, the generation from a large plant, which can be done much cheaper than it can be generated by a small institution, and the tendency has not been to take over, and I would say that the tendency is not at least stronger toward municipal ownership in the State—I think to the contrary.

I have spoken of the procedure before the commission. I want to say one more thing about that. It is something we can perform cheaper for them. It is something they can get cheaper; it is something they can get without attorneys; it is something they can, presumably, get fairly. It is undoubtedly advantageous that that condition should continue to exist, both with regard to carriers and public utilities, in my opinion.

We have also, of course, jurisdiction over accounting of interstate carriers. Now I will say right there that practically all the States, with I think some exceptions, have adopted the Interstate Commerce Commission's specifications for accounting; the reports which are made to the Railroad Commission of the State of Wisconsin are on reports printed by the Interstate Commerce Commission for the Federal Government and paid for by the Wisconsin commission. There is not this duplication. The figures are the same which go on the reports handed to the Wisconsin commission as those which go on the reports which are handed to the Interstate Commerce Commission. The accounting and classification are precisely the same, and when the other day the Interstate Commerce Commission, in view of the conditions which exist at the present time, and for the purpose of doing away with some of the labor which the railroads were under in furnishing accounts, saw fit to eliminate certain accounts which were expensive, and perhaps not necessary at this time, the whole National Association voted to adopt that change and we, in Wisconsin, have made a similar change.

So far as getting the data which we may wish, or which the commission has thought to be useful in fixing rates and determining what should be done by the Wisconsin commission on fixing rates, the carriers have been cooperating with us very completely in furnishing data and seem to be perfectly willing that we should have it, and I think they have found it to their advantage that we should know.

Now I come down to some other questions, and I think what is the fundamental question, or at least one of the fundamental questions before this committee of Congress. I think if you get rid of the camouflage that may be around it, we come down to this, and the question is simply, Is it desirable that substantially all control over the activities of the carriers should be centered in the Federal Government? As I understand Mr. Thom, his proposition of the car-

riers is that the State shall retain, and that only for a time, the power of taxation and some other incidental police power, not vital, whatever that may mean, and unimportant.

In regard to that question I come here before your honors to state that in my opinion such a consummation is not sound, that it is not founded on good public policy, nor, in my opinion, would it be found in the long run beneficial to the carriers themselves if the carriers propose to privately operate their own roads, and I do not believe it would if the Government operated them.

I want to start with one proposition, and I will read from Mr. Thom's testimony in the first part of the report of the testimony taken before this body, because the proposition is stated very fairly by Mr. Thom, and I agree with it fully. I read from page 69 of the hearings before the joint subcommittee as follows:

We are not here to discuss the freedom of this industry from regulation. That is universally accepted as a permanent and enduring part of American policy, and I, for one, concur in it, not only as a fixed policy, but I am a disciple of its wisdom. I believe it ought to be, so that when I raise my voice here it is not for the purpose of attacking the principle or the policy of regulation, but it is for the purpose of trying as far as my efforts can contribute to it, to see that the system of regulation is made as wise and as helpful as it can be made for the preservation of this great and essential industry.

Mr. Thom has frankly stated what I think is now conceded everywhere, that regulation must take place and that it ought to be here, and so starting with that proposition I come down to the second proposition, and that is this, that it is proposed that the functions now performed by State commissions, which must be performed by somebody, and are important to the State and everybody, must be performed by somebody, unless those functions and regulatory functions are to be entirely abolished. So that it seems to be a fairly well-established fact that functions now performed by State commissions have got to be continued to be performed by somebody, and therefore, the question is whether those functions shall no longer be performed by the State, or the body which the State organizes for that purpose, or shall be wholly and absolutely done by the Federal body here. If this power is to be taken away from the State commissions, these functions are to be exercised elsewhere, it is my belief that that power should be as complete and as thorough as that now exercised by the State, and so in addition to the vast functions not heretofore exercised by the Federal Government, we must have all of these functions exercised by some Federal body, exclusive of the State. In other words, there must be substituted Federal authority equally effective and efficient to take the place of that authority which it is now proposed to destroy. Now, before that is done, is it wrong if I call your attention to this: That before any such proceeding takes place, ought we not to study what is being done by the States, as you gentlemen are now studying, for the purpose of seeing what is so radically wrong and what there is about the regulation on the part of the States that is now being used or can be used as an excuse for utterly destroying that power and substituting an equally efficient power wholly in a central Federal body? So I call your attention to what I have already done, what we are doing in the State of Wisconsin, not because Wisconsin is so important or as important as many other States, but simply as typical of what State commissions are doing.



Besides making rates, gentlemen, we exercise all those other functions which I am talking about. Suppose we have got a situation where you are going to take away our power over grade separation. Now, in the State of Wisconsin we have a law, which is working out fairly effectively, that on the theory that eventually and some day dangerous grade crossings will be separated entirely, it is left in the hands of the commission to exercise judgment as to when they will be taken and how it is to be done and who shall pay for it. Some of those grades are already separated; for instance, in the city of Milwaukee a large part of them are. But when the city of Milwaukee comes before the railroad commission of the State of Wisconsin and says, "These grades are dangerous and we want to eliminate them," they have got to state also at the same time that they are willing to pay their fair proportion for doing that work. I just call that to your attention, gentlemen, because in many States there exists what is the inherent police power of the State itself to wholly order by ordinance, city ordinance, if it so desired, the elimination of such grades wholly at the expense of the railroads.

MR. SIMS. You mean grade crossings?

MR. JACKSON. Yes; and the Supreme Court of the United States has gone so far as to say they can not only put that expense on the railroad but the expense may be sufficient and the building sufficient to carry street cars, too, and it has only been two or three years ago that the Supreme Court of the United States went so far as to say that wholly at the expense of the railroads they could make the railroads build an overhead crossing over its tracks sufficiently strong and expensive to carry the street cars of a large municipality. That is the inherent power under the police regulations as it exists in the States to-day.

Now then, gentlemen, suppose we were to continue in the State of Wisconsin to perform our functions along that line, and we say to the railroads, "Gentlemen, we are not going to ask you to do anything that is unfair; the State, or the municipality, will pay its share toward helping you and helping this dangerous condition; it is a very heavy burden for the carrier and it is going to be a benefit to the public, and, being a benefit to the public, the public is willing to pay its share," and yet, gentlemen, that is just typical of one of the thousand things that might happen after you had destroyed the State commissions, by which we could not have such a law in the State of Wisconsin if we wanted it until we had seen Congress and talked with them and given them a full explanation of it and convinced all of the Representatives of all of the States in the United States here in Congress that they ought to pass a law permitting us to do that. In other words, for everything that we may propose in the State of Wisconsin relating to railroads, or in any other State, thousands of which are performed locally and efficiently, nothing further can be done until Congress allows it.

MR. SIMS. Does Congress have the power to supersede the police powers of the State connected with these things?

MR. JACKSON. I am inclined to think they can go pretty far if they can go to the extent of national incorporation under the war powers and under the post-road matters, etc. It is questionable; we would still have some functions left, I presume, but just what they

would be I do not know; but, according to Mr. Thom, they are not going to be vital.

Senator CUMMINS. Maj. Burkhardt, who has already begun his testimony before the committee, desires to complete it. He is in the service now and may be compelled to leave Washington at any moment, and if it can be arranged so that he can complete his evidence, I should like very much to have it done.

The CHAIRMAN. That can be arranged, Senator Cummins, at a time convenient to you and him.

Senator CUMMINS. If it could be done day after to-morrow, it would be very desirable.

The CHAIRMAN. That would be Thursday. I think we can arrange it for Thursday at 10 o'clock.

Mr. JACKSON. I have one point I should like to make now, if the committee will indulge me.

In reading over Mr. Thom's testimony I thought at times he felt there was perhaps some little political pressure brought to bear on a particular commission or the Interstate Commission, and that had to do once in a while with making regulation ineffective. So I thought, if I might state to you about the political aspect of the railroad commission of Wisconsin, I should like to do so. Since I have been on there, Mr. Merrittson has left, and the other members have been Mr. Alexander, Mr. Trombar, a professor of political economy in the university, and Mr. Allen, an engineer residing at Lake Geneva. We have been associated constantly every day since I have been on the commission. I want to say, to show you just how much politics there is in the Wisconsin commission, that I do not know to-day the party politics of these three men, although I have talked with them every day, during elections, and otherwise; that I am the only one whose party politics are known, and that is because in years of indiscretion I ran for office once. I was elected, however.

Mr. ESCH. That would plainly indicate your party affiliation.

The CHAIRMAN. If it is the pleasure of the committee, we will now take a recess until 10 o'clock to-morrow morning.

(Thereupon, at 12 o'clock m., the committee adjourned until Wednesday, December 12, 1917, at 10 o'clock a. m.)

## INTERSTATE AND FOREIGN TRANSPORTATION.

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WEDNESDAY, DECEMBER 12, 1917.

CONGRESS OF THE UNITED STATES,  
JOINT COMMITTEE ON INTERSTATE COMMERCE.

*Washington, D. C.*

The committee met, pursuant to adjournment, in room 326, Senate Office Building, at 10 o'clock a. m., Senator Francis G. Newlands, presiding; Hon. William C. Adamson, vice chairman.

The CHAIRMAN. The committee will come to order. Mr. Jackson, are you ready to proceed?

### STATEMENT OF MR. CARL D. JACKSON—Resumed.

MR. JACKSON. Gentlemen of the committee, there were one or two little things about this Wisconsin commission that I talked about a good deal, but that I still think might be of some interest to you. It is a simple matter—that is my excuse for talking of it to you here; it is a question of how rates are actually changed in the State of Wisconsin. If the railroads want to change a rate in the State of Wisconsin, they can file an application with the railroad commission just stating what the change is, what the present practice of the regulation of our rate is; what they desire, and why they want the change. The commission can allow that to go into effect immediately by simple indorsement on it, without notification to anybody, and it can become a rate in the State of Wisconsin, and be changed, lowered, or raised. On the other hand, the carriers can file with the railroad commission their proposed rates, and if they are objectionable they can rest in the files of the railroad commission for three years or four years. They do not become effective at any time unless approved. No change becomes effective unless it is approved.

Now, in actual practice when the railroads or carriers do file rates with the Wisconsin railroad commission, we often change those rates without any hearing whatsoever, and I call your attention to this because I want to say to you, gentlemen of the committee, that we are able to do that very thing because we are actually acquainted, and the men in our office are acquainted with actual business in the State of Wisconsin. The business of the State of Wisconsin is very varied; it is either the seventh or eighth manufacturing State in the Union. It has, I think, perhaps a greater diversity of industries than any other State in the Union, and it has, I think, perhaps has had and still has, the most varied kinds of rates of any State in the Union, although they are gradually being systematized, and yet because of our knowledge of that fact we often, when an application is made to us by a carrier, we are able to determine whether we can change that rate, and whether it will be injurious



or whether it will be profitable, and many such rates are changed and go into effect without notice to the public, or hearings, except in this way, except it is an increase. Then, as a general proposition we make them follow the law and publish that rate 30 days before it becomes effective.

On the other hand, when applications for changes come in to us we know what business would be affected. We know the actual names of the firms and the different people throughout the State of Wisconsin whose business would be affected, or the organization or city that would be affected by a change of rates, and if the matter is important and there is a question about it we notify those people and give them a chance to be heard.

Such a matter is often adjusted without a hearing of any kind. On the other hand, if we do not think it advisable to allow the proposed increase in the rates that the carriers are asking, and the carriers think it ought to be made, we then take the position, "Gentlemen, this is something which ought not to be made without giving persons an opportunity to be heard before the commission," and in that case we put it down for a hearing before finally acting on it, and in that way we can do that and sometimes have a hearing of a week or a day or two. We have even gone so far as to have a hearing within a day, where a matter was important, and giving everybody a chance to be heard.

On the other hand, where we know the general effect of a proposed increase or change of rates, we will allow it to be published and the approval will state that this matter is approved, subject to immediate suspension in case of complaint, and very often, in fact in a vast majority of such matters, there is never a complaint, because we are pretty sure from our knowledge of the actual conditions and the industrial conditions in the State what will be the effect and how the shippers will take it.

I think that is an advantage, and it is an advantage, may it please you, gentlemen of the committee, through the fact that it can only come through having men on the commission who are acquainted with local situations, and actual local business in that State as to how it will affect them. And we have men in our tariff departments who have been actual tariff men, who have handled tariffs, and are actually acquainted with all railroad operations, so through the years we have come to know what we are doing and can act upon it.

Now, you propose to do away with all of that, but I ask you, gentlemen—I do not mean that you propose it, but I mean the proposal is made and the question is before this committee—if you are going to take away that, you should certainly substitute something equally effective.

Something was said yesterday about an appeal, because I spoke of the fact that no appeal had ever been taken to the court, except possibly in one instance, of a rate fixed by the commission. I would not have you, gentlemen, by that get the idea that the carriers have been satisfied always with the rates made by the commission, nor would I go so far as to say that the commission has not, perhaps, made mistakes in its day. I think the credit, however, lies with men not now on the commission, men like Halford Errickson, whose study of costs, etc., gave the commission of Wisconsin, practically among the first commissions of the United States, the actual

cost of maintenance, so far as it can be ascertained, and, at earload lots very closely ascertained, so in acting on those matters we had the actual cost before us, and that, I think probably discouraged any possible appeal. Appeal can be taken with great freedom in Wisconsin, because the cases that would go to a court would not be that only of jurisdiction or lawfulness of the action as a matter of law, but the question when presented in the court of appeal allows no evidence to be introduced, and the reasonableness of the order itself, not the confiscatory nature of the order, but the reasonableness also to be gone into by the court.

We now come back to what I was speaking of yesterday when we adjourned, and that was the things which are being actually done effectively by the State commission in all its various ramifications. Now, these things are either being done for the public good, or they are not being done for the public good.

As I said, Mr. Thom admits that regulation must be here, and was very frank and fair in his acknowledgment. Now, if these things are good for the public—they would not be there and standing the test of time if they were not for the benefit of the public, and may I say when I say for the benefit of the public I mean also for the benefit of the carriers, because the carriers are a part of the public also, and you can not in the long run injure the carriers without injuring the public. I say that when these things are found through time and experience to be necessary and proper to be exercised as functions, and regulations, that they then must be continued somewhere, and I say that if you are going to declare that no public authority shall hereafter do any of the things of substance, we will use the word “nonvital”—never again hereafter do those things, then you must substitute in place of it equally efficient and effective machinery, with equally effective staffs, with equally effective and concrete and general knowledge as is in the possession of those bodies whom you propose, or whom it is proposed to destroy. You have either got to substitute or destroy.

My claim is, and I do not want, just because I am a railroad commissioner, to be standing here before you as a State railroad commissioner to take this position on any selfish ground—I will say there is no member of the State Railroad Commission of Wisconsin who sought the job or ever expected to be on this commission, or ever knew or dreamed of it until he was appointed, and the members of the commission, I am sure, would not thank me if I came here to take a position along these lines from any selfish motives.

So, now, we come down to this question. I have gone at length into all these various functions, and I will not repeat what I said yesterday, but I will come down to one other statement relating to regulation by the States, which I think needs careful consideration, and that is the question of conflict between State and interstate rates. Now, gentlemen, such conflicts have arisen, and they are not desirable, and they ought not to take place.

In so far as actual conflicts between State and interstate rates resulting in discrimination, have taken place, it has been deplorable, and, as I have gone through the mass of testimony which has been offered on this subject, and have studied what others have said, I have reached the conclusion that practically, when you speak of discrimination between State and interstate rates, which has at times

occurred, that you have reached the only argument that has been made, or the only possible objection that can be raised, or has been validly raised against the existence of State commissions and their exercising functions of regulation. I can say this frankly to you, because we have never had a conflict in the State of Wisconsin between State and interstate rates. And I do not think that we are going to have any conflict with our neighbors, Minnesota on the one hand or Illinois on the other, or Michigan. I do not think there would be the slightest difficulty if any question of that kind came up of whether the rates are on the same level, or discrimination is taking place which may injure that industry or this development or that development, but that members of those commissions are big enough to see that discrimination does not exist or will not continue or will be discontinued.

Now, what are the discriminations which might come out of State regulation as to rates and interstate regulation as to rates. There are only two things that could be objectionable: First, that the State should put in a rate which was unreasonably low or confiscatory. Now, if such a rate is put in, in most States the courts themselves will set it aside, if it is unreasonably low. If it is unreasonably low the machinery for correcting that mistake is in hand and fully provided, I believe, in the case of every State commission, as it is in the case of the Interstate Commerce Commission. So the machinery exists for the stopping of that. But our Supreme Court—I mean the Supreme Court of the United States—has said, even presuming that there are two rates which can both be reasonable, and I think that is the latest position that they have taken on that subject, there can still be discrimination, and if that discrimination exists, then the discrimination, if it interferes with interstate commerce, must be removed, and, acting upon the famous Shreveport doctrine, the Interstate Commerce Commission has and is now exercising the jurisdiction to remove that. So we have, first, on any question of unreasonably low rates, the protection both of the State and Federal courts, and on any question of discrimination the actual exercise of corrective power to the Interstate Commerce Commission. But I go further than that. Just to go back one minute. The doctrine as finally laid down in the Express Cases, as I understand it, is that if discrimination exists the Interstate Commerce Commission can remove it. Now, then, you have first got to find that discrimination exists by the Interstate Commerce Commission. If discrimination does not exist they do not act, and why should they act? Discrimination is one thing and distance and level of rates is another thing. But if the discrimination does exist, and the Interstate Commerce Commission should show what that discrimination is, it goes ahead and removes it, and removes it very effectively. Of course such machinery should not be used to say that the whole rates of a whole State are discriminatory in themselves, although they may not have any more relation to each other than the man in the moon has to somebody else, but where there is an actual discrimination then the Interstate Commerce Commission's power is supreme as it ought to be, and where there is any discrimination or interference, through State-made rates with the actual interstate rates which are in force, I say to you that so far as I am personally concerned—I am, perhaps not speaking for others—but so far as my own personal feel-



ings are concerned, I say that the Federal law must prevail, just as the Federal law prevails in the courts, and the Federal courts over the State courts.

While the remedies are still there, through the Interstate Commerce Commission and the courts, if such discrimination does exist I am of the opinion that further proceedings should be taken to eliminate the possibility of their existence, and personally I favor the recommendations of the Interstate Commerce Commission, made a year ago and again repeated within a few days. As you know, there is considerable cooperation now between the members of the State commissions, and the Interstate Commerce Commission, by consultation and otherwise, for the purpose of avoiding any of these situations. And I think we are doing it fairly successfully. Take most of the Western States, where the recent increases were made, and I think all the Interstate Commerce Commission States where increases were made—very high increases, by the way—and increases were due there—I understand that the States have met those increases pretty generally, and that the level of rates in Interstate Commerce Commission States is now the same as the interstate rates which were put in.

Take the coal rates which have been changed I know in western Illinois, Indiana, Ohio, Minnesota, and Wisconsin, to meet the recent increases by the Interstate Commerce Commission on coke, coal and iron ore. And I think there is not going to be any trouble along that line. There was some trouble, but it has been, I think, intensely magnified.

It is not because some such thing as that has occurred, and being corrected as it has been corrected when it does occur that the whole fabric of regulation must be torn to pieces.

The Interstate Commerce Commission a year ago made a recommendation which appealed to the members of the National Association. This year they acted.

MR. ESCH. You mean the National Association of State Railway Commissioners?

MR. JACKSON. Yes; and they acted upon it, and they have given, on page 58 of their last report, their idea again on this very subject, and I want to call your attention to the wording of the resolution, the wording of their recommendation made a year ago. It is as follows:

We believe that, without abdicating any of the Federal authority to finally controvert questions affecting interstate and foreign commerce, we should be authorized to cooperate with State commissions in their efforts to reconcile upon a single record conflicts between State and interstate rates.

THE CHAIRMAN. I think the Interstate Commerce Commission's report—

MR. JACKSON. That is what I am reading from.

THE CHAIRMAN. I thought that was a resolution of your Railway Association.

MR. JACKSON. No, sir; but what I was just reading was a recommendation made a year ago, and repeated again this year with amplifications, and a resolution in exactly those words, authorizing a committee, of which I have the honor to be a member, to cooperate with the Interstate Commerce Commission for presenting to Congress suggestions along the lines of legislation to meet this requirement has been passed unanimously and without a dissenting vote. I think such a

bill, along those lines, in a suggestive way, will be submitted to you gentlemen, and the reason why we ask that is this: We would like the sanction of a Federal law to our meeting and acting with them, and undoubtedly they would like the sanction of their meeting and inviting us under such rules as they may adopt to sit with them on a single record. The idea of that is not that we should join in the same opinion, but the idea is that each will exercise its jurisdiction, the Federal jurisdiction being retained and being supreme still under the Shreveport doctrine and controlling where any question of interstate commerce comes in, but the idea being that a fuller cooperation, recognized by Federal law, allowing us to sit together, will harmonize views through interchange of views, and that there will be an effort still stronger than is being made to-day to see that any discriminations do not crop out. They are subject to correction to-day, but we should like to eliminate even the phase where correction is necessary by not having it even occur for correction.

Mr. SIMS. Does the Texas commission join in this resolution?

Mr. JACKSON. I do not know whether Texas was there when they passed that resolution or not. I could not tell you.

Mr. SIMS. I thought maybe they had approved or disapproved it.

Mr. JACKSON. I have not heard whether they disapproved, but Senator Bristow could tell you.

Mr. BRISTOW. I think they have somewhat different ideas from the views you take.

Mr. SIMS. You are aware they have the largest mileage in Texas of any State in the Union?

Mr. JACKSON. Yes; they have a very large mileage, and it was from that, of course, the Shreveport situation arose. But the Federal authorities in control in Texas and the rates in Texas are fixed by the Interstate Commerce Commission, and they control.

Mr. SIMS. I only referred to the question of cooperating, whether they indorsed that position that you have just referred to.

Mr. JACKSON. I do not know whether they indorse that position or not.

Mr. SIMS. It is not material, but I wanted to know just as a matter of information.

I think, as a general thing, I will be frank to say that some of the commissioners have in the past, whether they do now or not, asked for Federal legislation, and I believe there has been pending before Congress a bill for a long while to curtail the Federal authority where it interferes with the State. I do not know about that.

Mr. ESCH. I think that is the bill introduced by Senator Sheppard, of Texas?

Mr. JACKSON. Yes; I do not know whether it is still pending, or what became of it.

Mr. SIMS. The situation is entirely different in Texas than in any other State, as they require all transportation companies to take out a charter in the State.

Mr. JACKSON. They do.

Mr. SIMS. I say that is not the case in any other State in the Union, as I understand it.

Mr. JACKSON. Yes; they do not do that in Wisconsin. I want now, if I may, to direct my remarks for a moment to one or two suggested propositions for legislation by Congress. Of course, I

have already spoken of the question of abolishing the State railroad commissions in effect, because it is in effect. I do not think you would pass a statute which said something like this: "That hereafter the Federal jurisdiction shall be complete, except in nonvital police matters."

If you did, I do not know how long it would take the courts to find out what "nonvital police power" meant. But we think we understand it in the States; it means if there is anything doing that will not be of any importance, it is left to the railroad commission of the State. So, Mr. Thom has provided or suggested; and I read this from Mr. Thom's very able argument and presentation here, and his first proposition is that the Interstate Commerce Commission shall have under it certain regional commissions. I have not had the opportunity to read all of the testimony, and I am taking the original proposition, and I do not know the number of regional commissions which it is intended by Mr. Thom should be put in effect, and where; but I want to call your attention to page 104 of Part II of the testimony, because it is quite a fundamental proposition, and in introducing this scheme for regional commissions Mr. Thom's opening statement, as I understand it, is as follows:

The Interstate Commerce Commission has, under existing law, too much to do, and is, consequently, forced to confide to subordinates important functions which the regulating body ought to be in a position to perform itself.

So I will start out with the fundamental proposition that the Interstate Commerce Commission is already too busy.

The second proposition is that the functions now exercised by the State commissions shall hereafter be exercised by the Interstate Commerce Commission. That, right in the face of the original proposition that the Interstate Commerce Commission is already too busy. Then we start with this proposition, that there be regional commissions. Of course, I know this was merely suggested, and the number of members may not be fixed, or the number of regional commissions. Then what do we find these regional commissions are to do? These regional commissions are to sit as masters in chancery, although it may be taken from part of the record that perhaps they could finally issue an order in and of themselves, which order shall never become effective in case any party of record excepts thereto, until the whole matter has been tried out before the Interstate Commerce Commission at Washington.

So, you have got to substitute, according to this scheme, equally effective bodies, either equally effective staffs, having equally effective knowledge of local conditions, throughout the country, to perform the various functions of the railroad commissions throughout the United States, or give to a body already too busy the decision of all those questions.

What does it mean, may it please the gentlemen of the committee, to say that if they want to change some little rate in the State of Wisconsin, that it can not be changed, nor relief be given to any people in the State of Wisconsin, the States of Georgia, Massachusetts, Mississippi, or anywhere else, until that has been first tried before these masters in chancery, as a regional commission, been excepted to by the carriers, been reported to the Interstate Commerce Commission, and been argued in Washington before a commission already too busy to exercise the functions which it now has? It does no



strike me that that is a workable theory; that it would be beneficial to the people; that it would give the relief demanded. I am of the opinion that if there were substituted for now efficient regulation a regulation which is inefficient and does not give the relief where demanded, I am of the opinion that other measures would need to be adopted by Congress far more effective than ever dreamed of by the carriers when this matter was brought before the Congress.

Mr. SIMS. Are you willing to suggest the thing you have in mind?

Mr. JACKSON. Well, I think it is almost pending to-day, Mr. Sims, from what I read in the newspapers.

Mr. THOM. Do you object to saying that under that plan the State regulation—

Mr. JACKSON. No, under the plan—

Mr. THOM. Under the plan which you say is imminent, would that interfere with the State regulation?

Mr. JACKSON. All I know is what I see in the papers, Mr. Thom, but if you will kindly ask me that question in a few minutes, I will be glad to answer it to the best of my ability. I do not know. Things are moving pretty fast.

I think this. Suppose I were a representative of the carriers, and I try to put myself in that position a great deal, I should not want and I do not think the carriers would want a less effective system of regulation, or anything which would bring about dissatisfaction with private management, and that brings me to the final proposition. I think you would be disappointed in the final effects of such a system to regional commissions, as was suggested originally by you. I do not think you would get out of it what you expected; instead of being an effective system of regulation, as I think you have outlined it, I am afraid it would be practically doing away with regulation; that it would break down of its own force or weight; that it would eventuate practically in denial of regulation, and I think a denial of regulation would lead to clamor, which would perhaps not be good for the public in the end, to the carriers, or anybody else. That is my idea.

One other suggestion, that is of national incorporation. I am not going to repeat here what Mr. Thelan argued at length, nor the legal aspects of it at all, nor am I going to say there are not some aspects of national incorporation which have some appealing features to them, but I am going to ask attention for just one moment to the practical situation in regard to it. If you start out to-day and federally incorporate all the railroads of the United States I understand you would have to have a compulsory Federal incorporation act; that is the scheme.

That raises objections from the start in this way: How is it going to avoid conflict; how are you going to authorize old stocks to be replaced with new stocks? Your old bonds, perhaps, will remain bonds as they are. How are securities to be issued? Are there going to be securities of new valuation or are the securities to be issued in place of present securities, and what about the stockholders who object to it, and all the thousand other questions? They all present difficulties. Of course, there is the other difficulty, the other suggestion, which I am not going to argue. It is this, that national incorporation could be easily used as a step in either one or two directions—either a step to annihilate State control even over taxes and every-

thing else, and, on the other hand, it might be a stepping stone to the next step of Government ownership. It might go either way; it is there; all the eggs are in that one basket.

On the other hand, I am a strong advocate, as strong as can be found anywhere, of the absolute necessity for the control of the issuance of future securities by the carriers, both for the benefit of the public and the benefit of the carrier. Many of them are incorporated in the different States. We have two or three very important systems—I do not really know the exact number—three or four of the most important in the country, incorporated in the State of Wisconsin, and I am frankly of the opinion that through a licensing system, or some other Federal act—I think that Mr. Thom himself admits there is no difficulty constitutionally about providing it—that no further securities should be issued by the railroads except under the supervision of the Federal body, and I, of course, should suggest the Interstate Commerce Commission—that for the protection of both; but I think that the scheme of Federal supervision and practically allowing the State to act merely in a more or less perfunctory manner in the issuance of securities after they are authorized by the Interstate Commerce Commission would bring about the relief which is demanded without raising so many vital questions in case of national incorporation. That would be my suggestion. I may be wrong in that, and may be wrong on a good many other things, but national incorporation, we will all admit, is not necessary at all for that purpose. It is not necessary in order if the Federal Government should actually want to go ahead and exercise all the functions now exercised by the State commissions, it could do so without any Federal incorporation, in my opinion. It might be more difficult to bring about the complete doing away with even taxation, but it could still do it, so I can not see the necessity or reason for asking national incorporation, except on the question of the issuance of stocks and bonds and securities. That would be the only purpose of it that I have seen stated fully that would be a reason why it would be necessary, and that can be accomplished by a machinery so much easier and simpler and just as effective, it strikes me, as national incorporation. I am not hide-bound on that subject, but those are some of the things which strike me as probably being so.

I will not detain you except for a few moments longer. There are other questions which are interesting. They are questions of the supplementary acts to the present regulatory acts, which are purely within the functions of the Congress, and I think that some such amendments are necessary. I do not know, but it strikes me that the Interstate Commerce Commission has several times asked power to regulate minimum rates. We have that power in Wisconsin, and I think it should be given, and I am in favor of other and broader powers in regard to it, but I do not know that you care to hear me at all on that subject, and probably only on those subjects which might affect the States in some way.

In closing let me just call your attention to one thing: It is not the carriers alone, or the steam railroads, that operate interstate or regulate interstate; there are the interurbans, the telegraph, the telephone companies, and the express companies, and a great many

utilities actually operate across State lines. Is this plan of centralized Federal control to also involve those, and then is it to go on taking all public utilities eventually? Because a large part of them will cross or do cross State lines.

I think there is danger in a tendency to centralize control of everything. I want to speak in a political aspect, but political only in the highest sense of the term, as I understand it. I think there is danger under the fundamental principles under which this Government is run in centralized control to the extent of the abolishment of individualism and local control entirely. The effectiveness of our form of government depends upon the fact that local communities are self-governing and exercise self-governing functions and are used to certain governing functions. A large number of the Members of both Houses of Congress, I have no doubt, exercised political control and local functions long before they came to Congress. We are educated to it, and it is that system of local control and organization and performance of local functions which educates the people of the United States to be self-governing.

What particularly called my attention to this, I was reading one of John Fisk's books, which we all read time and again, but when I read it the first time it did not strike me at all as it did later, where he spoke of the beginnings of New York, the beginnings of town and local government and the character that it gave the English-speaking people, and other people, and especially the American people in their having to exercise local functions and political control, and their growth in it from childhood gaining an understanding of our political institutions. Then he goes on to call attention to the history of the Roman Empire, and in it he speaks of the fact that the Roman Empire fell, not because the outlying Provinces or the different departments of the Roman Government exercised self-control, but because through the growth of centralization at Rome there was actually finally abolished all political independence outside of the city of Rome. Everything was finally centered in Rome and exercised from the city of Rome, and I want to read you his remarks on that, if I may. They are very short. After speaking of that fact, he says:

A pardurable government must be that which achieves national society on a grand scale, without weakening the sense of personal and local independence, for in the body politic this power of freedom is the red blood corpuscles of the blood which carry the life with it; it makes the difference between a society of self-respecting men and women and a society of puppets. Your nation may have art, poetry, and science, all the refinements of civilized life, all the comforts and safeguards that human ingenuity can devise, but if it loses this spirit of freedom or local independence it is dimmed, and deserves to be dimmed.

I thank you, gentlemen, for your attention to what I have said, I probably could have made it briefer and have wandered a good deal, but I have tried to cover it as I saw it, and I trust I have been able to hold down any selfish aspects which I might have just because I happen to be a State commissioner. Mr. Thom, you asked me a question, I have forgotten just what it was.

Mr. THOM. I do not care to interrupt. I thought in connection with your argument that you stated there was now imminent either Government protection and control, or Government ownership, and I gather that you thought it would result in Government control of State bodies.



Mr. JACKSON. Well, I do not know. I think probably, even if Federal control comes, that the Federal Government would wish to use the instrumentalities which are in existence for effective management or control.

Mr. THOM. If the Federal Government uses them, then they will be Federal instrumentalities.

Mr. JACKSON. I do not know. I do not know what the Government would do if it took over through an administrator. I imagine if it took over through an administrator it would still leave the Interstate Commerce Commission. If the Interstate Commerce Commission's functions were still left——

The CHAIRMAN. I must call attention to the rule that no questions are permitted except by members of the committee.

Are you through, Mr. Jackson?

Mr. JACKSON. Yes, sir.

The CHAIRMAN. I will state to the committee that in view of the fact that the business of Congress is so pressing and the number of witnesses here, and the fact that I think our record has been enlarged very much to its disadvantage by cross-examination, that I intend to abstain from it myself.

Mr. SIMS. Are you going to discharge the witness?

The CHAIRMAN. No. Other members of the committee can have the witness in hand. Senator Townsend, have you any questions?

Senator TOWNSEND. I quite agree with the chairman. I have seen very little good come from these long, technical cross-examinations of the witnesses. We have been into this matter, the committee understands it very well, as do Members of Congress. As I understand, the object of having these witnesses here is to get their ideas, and while I have not heard all of this splendid statement that this witness has made, I am convinced that he has made himself very clear as to his attitude, and we are never going to finish the hearings if we spend too much time in cross-examination. I do not want to have anybody precluded from asking a question that is pertinent to bring out something, but I do deprecate any arguments with the witness on the part of the members of the committee, therefore I shall not ask any questions.

The CHAIRMAN. Mr. Sims, have you any questions?

Mr. SIMS. I certainly have. I see no use in turning loose so good a witness as this one without finding out all we can from him. Do you want me to proceed?

The CHAIRMAN. Yes, sir.

Mr. SIMS. I want to know if I understood you correctly as to the courts in Wisconsin exercising legislative power when a rate case is before them on appeal, and I mean by a rate case not a suit brought to contest a rate—I want to know if the courts in Wisconsin fix a rate for the future?

Mr. JACKSON. I think I can answer your question. I may have been misunderstood. They have never done such a thing, but whether they would not have the power, I am inclined to think they probably would have, because of the peculiar statute. As I said, we have had very few rate cases; no railroad rate cases go before the courts in Wisconsin. We have had some public utility rate cases, but they were affirmed, so what would happen if they had thought otherwise I could not tell. But the power rests in the commission,

I think, the appeal, "in all trials under this section the burden of proof shall be upon the plaintiff to show by clear and satisfactory evidence that the order of the commission complained of is unlawful and unreasonable." You see, it does not say "confiscatory," as a case may be in all actions brought under this proceeding, but it gives them full power to enter such order as they may see fit in the premises. What they would do in case an appeal were taken from—for instance, suppose somebody should make an application for the lowering of a rate and the commission would not lower the rate, I think the court could, if it found under the facts it should be lowered, but that is not likely to arise.

Mr. SIMS. But what I want to get at is, do your courts ever exercise what we call legislative power?

Mr. JACKSON. No, sir.

Mr. SIMS. Is not the fixing of a rate for the future a legislative function?

Mr. JACKSON. I should think it would come pretty close to it. I do not think it is a legislative function—a legislative function could not be delegated—it is an administrative function—a legislative function could not be delegated at all.

Mr. SIMS. Because a legislative function can not be delegated—

Mr. JACKSON. An administrative function could be delegated.

Mr. SIMS. Given power to make rules and regulations in order to carry out the legislation?

Mr. JACKSON. Yes, sir.

Mr. SIMS. You referred to the fact that your commission has jurisdiction over water-power sites?

Mr. JACKSON. Yes, sir.

Mr. SIMS. Do you refer alone to water powers that are on non-navigable streams in which the State only has jurisdiction?

Mr. JACKSON. No; I refer to both navigable and nonnavigable streams, but, of course, those which have been taken over, are under the control of the War Department here. We have not exercised any control over them, because we consider the War Department is supreme.

Mr. SIMS. In other words, then, it is purely a local, or State matter?

Mr. JACKSON. The larger part. There are some very valuable water powers on the Fox River between Neenah and Green Bay. Those water powers are under the War Department, under the Green Bay Canal, and the United States Government, when it took over the locks and dams, agreed to maintain them at its own expense, and the Green Bay and Mid-Canal Co., and outside of those the main water powers in the State of Wisconsin, developed and to be developed, are under the jurisdiction of the commission.

Mr. SIMS. In that particular case you refer to an act of Congress which prescribed what might and what might not be done?

Mr. JACKSON. Yes, sir; there is actual navigation on that stream by fairly large boats.

Mr. SIMS. And I understand you to say that under the Wisconsin law that the State of Wisconsin has a right to take over public utilities?

Mr. JACKSON. Yes, sir.

Mr. SIMS. Do you mean by that the State of Wisconsin—

Mr. JACKSON. Not the State, the municipalities.

Mr. SIMS. You do not refer to States?

Mr. JACKSON. But the State of Wisconsin has reserved the right to take over the water powers.

Mr. SIMS. But not the railroads?

Mr. JACKSON. Oh, no.

Mr. SIMS. That is what I wanted to ask you. Is there any law in Wisconsin that allows your State or municipalities to take over and operate any portion of an interstate railroad or water course or canal, or anything of that sort?

Mr. JACKSON. No; Not to operate canals or water courses; but the provision is made that when the State wishes, it can, within 30 years, take over these water powers by paying a certain sum already fixed.

Mr. SIMS. Then on that question that is the one thing which caused me to ask you about water powers at all: the State of Wisconsin, before it will grant permission to establish a water power, provides that it shall have the right to take over the water power at the end of the time fixed in the permission at a price stated in the original permit?

Mr. JACKSON. No; it is, very briefly, this: The law requires that in making the application the applicant shall agree to the following provisions, which they do: They enter into a contract with the State; at any time after 30 years after the granting of that permit for water power the State of Wisconsin, or any of its agencies, may take over that property, paying therefor the valuation for the dam site and flowage rights and water power as fixed by the commission before the permit is granted, plus the value of the physical structures used and useful in connection therewith at the time that the property is taken over. You would have to have two valuations, the first one the water power flowage rights now, then the physical structures and all other property in connection with it, used and useful, at the time of the taking over. Those two things control the price when the State takes them over at the end of 30 years. That was the compromise. The original law, gotten through by Senator Huston, provided—well, the first law gotten through was held confiscatory; the second law provided if parties wanted to take out a permit they should agree that the State might take it over without paying anything for the water power at the end of 30 years, and after a fight the compromise was made and the law now provides the taking over under this valuation.

Mr. SIMS. Have there been any water powers established under that law?

Mr. JACKSON. Yes, it is going along quite fast; we are developing and the whole State is developing.

Mr. SIMS. It has not seemed to retard any development along that line?

Mr. JACKSON. There was not any development for six or eight years until this law came into effect. Now there is development, and securities for such developments have been obtained by such conservative houses as Harris Trust Co., of Chicago.

Mr. SIMS. Mr. Jackson, do you or not consider the power of a State to tax an interstate railroad or public utility a vital power in the sense in which it is referred to by the railway executives, that it is one which may become vital to—

Mr. JACKSON. I should personally consider it vital at this time, perhaps, to have the law which they suggest, and I think they ex-



pressly stated it would not do away with that power, but the power is there.

Mr. SIMS. Is it not vital; may it not be made vital to the operation of the interstate railway?

Mr. JACKSON. You mean the carriers might consider it one of the vital things which should be taken away from the State? I do not know that I quite catch your question.

Mr. SIMS. I will put it so we will not make any mistake about it. If a railroad goes through 10 States and each State—not each, but some of the States—levy all the tax upon that property that they can levy on it under their laws and other States do not through which the same system or same line goes, now, does not the State that levies the tax which we call excessive—I do not mean largely excessive, but excessive as compared with other States—does that not impair the ability of that railroad company to serve all its patrons throughout the length of its line to the extent of the differing taxation in the one State and the other? If it has to take the earnings of the entire company in order to pay excessively high taxes, or a high tax in one and perhaps not one-half the same tax in another, does it not work out a discrimination the same as if they do not levy an equally high tax?

Mr. JACKSON. I had not given the matter consideration in that way. Of course legally it has been held by the courts not to be discrimination, I suppose.

Mr. SIMS. I mean, in effect; I mean in the ability of the railroad to serve all its patrons alike?

Mr. JACKSON. The effect on the utility, if the taxes are such as to interfere with the earning power of the railroad so as to prevent it from doing its legitimate business and make a fair return and profit on its property, is injurious.

Mr. SIMS. Well, if none of these 10 States taxed this utility at all, could it not serve the public for less rates——

Mr. JACKSON. No——

Mr. SIMS. Than it could if they all taxed it; that is, if the amount of taxes is sufficient to affect substantially the earnings of the road—the system that runs through several States?

Mr. JACKSON. Yes, but the question is whether those who were using transportation would, supposing the rates would go down on that account. We will take that as being the effect, that the rates now are reasonable, the rates would go down; it would mean that the consumers of transportation, or the freight shippers or passengers, would practically get a benefit to the extent that the taxpayers lost it, who might not be the ones always using the transportation. In other words, it is just taking a burden from one class and putting it on another.

Mr. SIMS. Taxation falls on all classes, does it not, within the State?

Mr. JACKSON. Yes, sir.

Mr. SIMS. Within the taxing jurisdiction?

Mr. JACKSON. Yes, sir. A large number of people, for instance, we will take suppose several million dollars paid into the State treasury for the running of the State is no longer paid; if it is no longer paid, that money has got to be raised by taxation from the people in general. It might be raised largely from a class of people who were not actually using the facilities of transportation,

and thereby change the burden, I say, from one to the other, whether just or not.

Mr. SIMS. Shifting the burden from one class of taxpayers to all taxpayers when only those who use the facility get the benefit: is that what you mean?

Mr. JACKSON. That might work out that way. Just how it would work out I am at a loss to say.

Mr. SIMS. I have no reference to that. I have reference to the ability of the railroad to serve its patrons at the lowest possible cost. Does that not depend upon the cost of operation, and are not taxes to be paid a part of operating costs?

Mr. JACKSON. Yes; and the carriers could operate it still cheaper, theoretically, if the State and Congress would make a legislative gift to them each year.

Mr. SIMS. Oh, certainly; the Congress could buy and own railroads and operate them free to those who use them by taxing the whole people.

Mr. JACKSON. Theoretically, the more money they could get in one way the lesser operating expenses there would be; theoretically, at least, the cheaper they could render the service.

Mr. SIMS. The State of Texas, from the last report I saw on the subject, the taxation per mile for all purposes in the State of Texas is about \$300 per mile, or \$299 to be exact, or near that; in the State of New Jersey, \$3,000 per mile of line. I am speaking of these extremes. Some States tax even lower than that, but I do not think any higher. Does not such a lack of unanimity—

Mr. JACKSON. About \$1,000, I should think, in Wisconsin.

Mr. SIMS. Now, how can a railroad system, operating in a number of States, with such a diversity of taxation requirements or burdens upon that railroad, these burdens all to be discharged by the earnings of the whole road, as a possible thing suppose the taxes were put at \$3,000 a mile of the largest railroad mileage of any State in the United States, does it not seem reasonably certain that would affect the interstate carriers that are serving adjoining States to some extent, to the extent that the burden is increased in the one and the rate must be increased in all, and that they would not otherwise have to increase the rate in Louisiana and Oklahoma or other States they are serving providing this terrible tax burden was off of them in Texas?

Mr. JACKSON. There is the possibility that such a thing can be done and that it would work out. I suppose there is no rule about which you can not say if somebody carried it to an extreme injury would result. I do not know whether Texas has carried it to an extreme.

Mr. SIMS. I do not know. I do not know whether New Jersey has overtaxed the roads, but I know it is a fact.

Mr. JACKSON. It is like everything else in our Government. You can exercise a just thing wrongly and always do injury.

Mr. SIMS. But you would have a sharp dividing line if we are going to take out national incorporation for all railroads on the theory that they are performing a national service and that the Nation is larger than any of its parts and the interest of the whole is greater than that of any of its parts. In other words, we can, under the laws enacted by Congress, give to the national corporation

national powers and protection. If it is essential, if it is vital to interstate transportation to have national incorporation of all the railroads, because the national service of the roads comprises about 85 per cent of the service rendered by the roads, it would tend to promote the national service or to render the national service more efficient if it should be governed exclusively by the National Government and not be subject to State taxation.

Mr. JACKSON. The only answer to that is that if you want to build a house, you sometimes do not build it all in one year.

Mr. SIMS. In other words, take what you can get now and the balance later. Is that what you have in mind?

Mr. JACKSON. Possibly.

Mr. SIMS. I think we ought to view this matter in all its probabilities and possibilities, and do what is just and right and reasonable.

Mr. JACKSON. I see your point. Of course, I can not say that, unless something very far-reaching is going to take place through national incorporation which has not been developed. I can not see the necessity for it.

Mr. SIMS. Under the laws in the State of Wisconsin, do you have the right to abolish grade crossings?

Mr. JACKSON. Yes.

Mr. SIMS. I mean you have the right to force the corporations either to cross the highways over or under them, that is, either to put their tracks above or below the highway, in order not to endanger the lives of the people.

Mr. JACKSON. That is true, where we find the conditions are sufficiently dangerous to warrant such action.

Mr. SIMS. I believe your statement was that you only require that in a case where the locality or the State, the municipality or the State pays one-half of the cost.

Mr. JACKSON. We did not say one-half. It is only done, practically, in cases where the communities themselves have petitioned for it and are willing to stand for it. The proportion varies at different times and under different circumstances.

Mr. SIMS. I do not care about the proportion. If the State of Wisconsin has the power to require the railroads to abolish grade crossings, has it not the power to do it, regardless of the amount of the local contribution? If they are required to do it all, can they not compel them to do it at their own expense?

Mr. JACKSON. Absolutely. That has been passed upon by the Supreme Court of the United States.

Mr. SIMS. Would not the exercise of such a power as that be vital, so far as the resources of the railroad are concerned, to the extent of the amount of money used in the performance of that service?

Mr. JACKSON. I have always feared it might be considered vital.

Mr. SIMS. Would not that call for a vast expenditure of funds, which would have to come from somewhere?

Mr. JACKSON. Yes.

Mr. SIMS. Would not that cause an increase in the permanent capitalization of the railroads?

Mr. JACKSON. It is bound to cause an increase in the permanent capitalization of the railroad. We figured that even with the unit



prices as they existed in the State of Wisconsin three years ago, if the grade crossings were to be abolished, it would cost not less than \$250,000,000.

Mr. SIMS. For the one State of Wisconsin?

Mr. JACKSON. Yes, sir.

Mr. SIMS. Suppose every State in the Union exercised that power. That would run the cost up to a tremendous amount, would it not?

Mr. JACKSON. It would run the cost up into billions and billions of dollars.

Mr. SIMS. There is no question in your mind, as I understand from your statement of your position, that every State in the Union has the same power as the State of Wisconsin with reference to this particular matter we are now talking about.

Mr. JACKSON. That is correct.

Mr. SIMS. I want to know whether, if the power that one State has to run up the capitalization of the railroads within its territory \$250,000,000 in the way of additional capitalization, should be exercised by all the States, and exercised in such a way as the extent of their powers permits, would it not practically block all other transportation facilities of the railroad companies, if they had to bear this whole burden themselves?

Mr. JACKSON. I do not know how they would do it. The power is not only exercised by the State, it is also exercised by the cities. The municipalities exercise their power by the passage of ordinances. The municipality gets the power through the State.

Mr. SIMS. Have you considered the possibility of such a power being vital to the railroads?

Mr. JACKSON. Within the meaning of the term "vital" as used in the proposition, I should say they would probably consider it vital.

Mr. SIMS. In the proposition which the railroad executives have submitted, does it not leave within the States the power to abolish grade crossings at the expense of the railroad companies?

Mr. JACKSON. I could not say as to that. I have tried to make out how far they would go. I am of the opinion that if carried to its logical conclusion, it would often be the duty of the Federal Government to even take control of that. Of course, the word "vital" can mean almost anything, but I should judge they could go so far as to include that.

Mr. SIMS. I want to ask you if the money expended by the railroad companies in abolishing grade crossings brings with it such additional earnings as would enable them to pay interest on borrowed money or dividends on capital stock?

Mr. JACKSON. Very remotely.

Mr. SIMS. Only indirectly, by reason of the railroads not having to pay damages for the lives of human beings, or for injuries, or for damage to property.

Mr. JACKSON. Yes; but that is very remote.

Mr. SIMS. If the States have the power, and legitimately exercise it—

Mr. JACKSON. Of course, there is this, too. It facilitates speedy transportation very often.

Mr. SIMS. But they have the benefit—

Mr. JACKSON. The carriers themselves, without any compulsion from the State or municipal authorities in our State, in many cases

separated the grades for their own convenience in transportation pretty generally throughout the country, and in other States where they can do it, and I suppose it would be an increase in capital account. It would save lives in the end, of course.

Mr. SIMS. Have not the States now the power to require of the railroads such expenditures, lawful and proper expenditures, for the abolishing of grade crossings as would require such an additional capitalization as to make quite an additional increase in their burdens and cause a demand for increased rates in addition to what they have already demanded?

Mr. JACKSON. Oh, certainly, the exercise of that power is for the benefit of the public, and can only be made of practical benefit through the use of the money of the road.

Mr. SIMS. Whenever a railroad spends money and issues additional capitalization or bonds it must have a proportionate increase in the amount of its earnings in order to do that. The more money a railroad company places in nonrevenue producing investments the greater will be the revenue that must necessarily be collected from the traffic that does produce revenue.

Mr. JACKSON. Yes.

Mr. SIMS. With the possibilities in the way of increase in capitalization for grade crossings and other things in the way of improvements, legitimate and proper, and with the power of the States to require those things, if there is not some additional way of getting additional revenues by the railroads, how is it going to be possible to increase the facilities and equipments of the roads to meet the demands which now exist without so increasing the freight rates as to destroy the business of the country?

Mr. JACKSON. I do not know whether it is proposed to increase these facilities or cast these burdens unreasonably from time to time on the carriers faster than the improvements can be made through increased capitalization which would be remunerative. I do not suppose it is. Of course, if all the things which are ideal in the way of improvements should be cast upon the carriers at once their position would undoubtedly be pretty serious. I do not know how they would meet that without additional capitalization or getting the money somewhere, and if the traffic will not bear it I do not know how they would get it.

Mr. SIMS. The present revenues of the railroads, according to their own statement, consists of 85 per cent from interstate traffic. Now, these local expenditures must be a burden upon those interstate revenues, as the interstate revenues would pay 85 per cent of the cost of the local improvements imposed by the State or community; does not that necessarily follow?

Mr. JACKSON. No; it does not necessarily follow.

Mr. SIMS. I am supposing that the railroads themselves have to bear all of this cost, and that there is no contribution on the part of the State or municipality.

Mr. JACKSON. If I were going home, I would think there was some degree of safety and convenience in riding between this city and my home because of the facilities that have been provided, which are safe and proper, and it would probably do that so far as speeding up the train service is concerned. It might benefit interstate more than State traffic.

Mr. SIMS. Then you would suggest an increase in interstate traffic rates for the purpose of bringing in money equivalent to the expenditure?

Mr. JACKSON. You are assuming that a new and extra burden is about to be cast on the carriers.

Mr. SIMS. I am assuming that the carriers do what is best to be done, and what the States have the power to force them to do, that given a benefit to interstate traffic and a benefit to interstate transportation of products, and that the rates on these products and on this travel should be so increased as to pay for these expenses, necessarily incurred for their benefit.

Mr. JACKSON. Because of new investment which was put in, and you would have to pay interest on the investment. Of course, you do not expect to pay for capital money or new improvements out of the rates.

Mr. SIMS. Nothing but the interest and dividends out of the additional expense that has been forced on the railroads by the State exercising their legitimate powers in a legitimate way, and in the public interest.

Mr. JACKSON. I do not know whether rates would have to go up. If operating expenses had not gone up and traffic had been where it is now, there would have been a great surplus if the ordinary rule of increased returns from increased traffic had been in operation. Of course they have had larger earnings recently.

Mr. SIMS. Do you not believe, as a practical man, with large experience in these matters, that it is to be expected that the States in the future are going to require the railroads, in the matter of such improvements as you refer to, more and more of that sort of service, and will it not be their duty to do it?

Mr. JACKSON. I expect they will, and I expect that in our State the carriers will cooperate with them.

Mr. SIMS. There is going to be increase, necessarily, in the capitalization of the railroads by reason of the exercise of the powers of the States, which they have the right to exercise, and which are being exercised in the public interest.

Mr. JACKSON. There will be an increase in capitalization not only because of that, but on account of increased facilities, unless the railroads stand still, and that is impossible.

Mr. SIMS. We have reached the point where the more freight the railroads carry the higher rates they ask, based upon increased service.

Mr. JACKSON. That might not always be so. That happens to be so at the present time because of the extraordinary increase in operating expenses due to the war. If you had the present increase in the amount of freight, with only a nominal increase in operating expenses, the returns to the railroads would have been wonderful, but that did not take place. The operating expenses due to the war have gone up so that although they have had tremendously increased revenues they have also had tremendously increased operating expenses.

Mr. SIMS. Do you not think it would be the best policy to be pursued that the railroads should charge for each and every service which they perform, and that they should perform absolutely no free service?



Mr. JACKSON. I do not see why that should not be. As a matter of fact, there may be some exception, but I have not any such exception in mind. The only free service which they are rendering now—there are some few passes which have been issued, and they have some reduced rates in effect here and there. The land speculators in Wisconsin are now helping to develop northern Wisconsin, and there are some few reduced rates in effect there.

Mr. SIMS. So far as the earnings are concerned, and as a source of revenue, do not the terminals give absolutely free service? There is no terminal which adds to the revenues of the railroads and the general revenues of the railroads are taxed to maintain and keep up the terminals, which are of such great advantage to the people who use them. But the railroads get no revenues out of the terminals.

Mr. JACKSON. Do you mean freight or passenger?

Mr. SIMS. Both.

Mr. JACKSON. In the case of freight, certainly a terminal charge is included in the cost of the freight, in the freight rate.

Mr. SIMS. All the terminal charges on freight in New York are charged up as part of the expenses of the railroad, on freight that never went into or never left New York.

Mr. JACKSON. That is another question. The point is, can you say that, because of a slightly different terminal charge at one place than at another. There is a point where you can not get that down fine enough to make it a part of the cost, unless you bring about each separate rate, based entirely on the particular charge for that particular movement. That is impossible. The terminal charges, as a general thing, are in the freight rate, and the terminal charges in Wisconsin are different at different places.

Mr. SIMS. Are not the demands for capital by the railroads greater for terminal charges, increased terminal facilities and things of that nature, than their demands for capital for rail line structures, at the present time; that is, their increased demand for money for such things?

Mr. JACKSON. I understand they run very high.

Mr. SIMS. And the additional revenues received by the railroad companies because of these additional expenditures are practically nil; is that not a fact? I am speaking in general terms.

Mr. JACKSON. I could not say practically nil.

Mr. SIMS. On account of the expenses incurred because of those improvements.

Mr. JACKSON. Of course, it is possible that the revenue derived from an expensive terminal does not bear anywhere near the same relation to the cost as is the case outside, along the line of movement cost.

Mr. SIMS. Every cent of money received for terminal charges adds to the revenues of the railroad, and therefore lightens the burden upon the line traffic to that extent?

Mr. JACKSON. That is true.

Mr. SIMS. Is not transportation movement: does it not mean movement from one point to another point?

Mr. JACKSON. Yes, sir.

Mr. SIMS. And the terminal is nothing more than a temporary receptacle of the human beings who travel on the trains and of the freight traffic?

Mr. JACKSON. That is true; but you can not have a movement unless you have two terminals.

Mr. SIMS. Yes; I think you can. I have seen them take traffic on out in open fields on a temporary siding.

Mr. JACKSON. That would be expensive.

Mr. SIMS. It might be to the railroads. If the terminal facilities are going to be ever increased, with no charge to be made to those who have the benefit of those terminals, and of the service of the terminals, will not the demand for increased rates upon the movement of freight be interminable? Where is it going to end?

Mr. JACKSON. It would be likely to increase. I can not tell what interminable means?

Mr. SIMS. That is the tendency, is it not?

Mr. JACKSON. I know what you are referring to, but the question is whether those who are getting more benefit from the terminals are paying what they should pay for the use of the terminals, and whether the cost is being charged on other people who are not getting the benefit of the terminals or the terminal service. I can not tell as to that.

Suppose I ship grain from Kansas to New York, or suppose I send the grain from Iowa or from North Dakota to New York; of course, as a shipper in North Dakota, I am getting a little benefit out of the terminal in New York. I could not ship to New York if there was not a terminal there.

Mr. SIMS. You could not ship it from where the freight started unless there was a terminal there.

Mr. JACKSON. No.

Mr. SIMS. Here is a man who has to pay a certain freight rate upon cattle or upon beef which he ships in order to make up for the deficit that may be brought about by the construction and operation of an expensive terminal; why should not those who get the special service at that terminal pay something for that service, and help to meet that burden?

Mr. JACKSON. I think Commissioner Harlan, of the Interstate Commerce Commission, can give you the best answer to that question. I think he has similar views on that question.

Mr. SIMS. I think he has always been against free service.

For the purpose of illustration, it cost the New York Central Railroad Co. and the Pennsylvania Railroad Co. about \$300,000,000 to build their two passenger terminals in the city of New York.

Mr. JACKSON. Yes.

Mr. SIMS. They do not charge their passengers for going in or going out of these terminals. But the entire revenues of those two railroad systems are charged with the expense of building and maintaining those terminals, and it is necessary to keep up all the facilities of the system. There is a permanent capitalization for which the entire revenues of the railroad companies must provide. Do you think it is economic justice to the men who do not use such terminals, or who do not use the freight terminals, that they should have this burden placed upon them for keeping up these terminal stations, that are ornamental almost beyond the dream of the artist?

Mr. JACKSON. If an injustice is being done to anybody because of charges being made, it ought to be rectified. I do not know whether or not it is. You are putting up an awfully big problem to me.

Mr. SIMS. You are a big man, and that is the reason I am putting this big problem up to you.

Mr. JACKSON. Personally, I think you have to have terminals in New York. There are two of them in New York.

Mr. SIMS. I am not speaking against the terminals. I am in favor of terminals.

Mr. JACKSON. They have got to be there. Whether they are casting an unnecessary burden on somebody else is a question. But they have got to be there.

Mr. SIMS. I am speaking of a specific charge for each person who has the benefit of a terminal, a charge for the service he enjoys and receives.

Mr. JACKSON. I would not be prepared, without a detailed and more complete study of the situation, to say that. There are a great many people using the interurban systems in New York and going into that terminal. I do not know what the interest is on that terminal. It is an interstate and interurban terminal. Whether the interurban traffic is paying its fair share, in proportion to the number of those who use it—and that class of passengers use it most—I would not be able to state.

Of course, if you figured up the passenger rates as that has been done—there have been arguments made along that line—you could get at the passenger rate the same as you get at the freight rate, and charge to the man who rides his fair share for the use of that terminal, and not more than his fair share, whether it would not make a difference in the passenger rate.

Mr. SIMS. Let me show you how it operates with reference to through railroads who do not have the benefit of the terminal. The railroads which have the terminals deflect the passengers who would go on other roads to their own roads because they have these terminals. Therefore the weak roads are made weaker. The railroads which have the terminals do all they can to get the passengers from the roads which do not have the terminals. That, of course, is natural.

For instance, now I do not go to New York on the Baltimore & Ohio Railroad any more because when I do I have to cross the North River on the ferry. When I go to New York now I take the Pennsylvania Railroad because it takes me across the river and lands me uptown in New York. I do not have to pay any more in the way of fare although I am receiving that additional service which I can not receive on the other road, and I am not paying anything for that additional service.

Mr. JACKSON. That is true of every competitive service. A railroad which has those facilities is further ahead than the railroad which does not have those facilities.

Mr. SIMS. I understood you to say that the State of Wisconsin treats every public utility as a natural monopoly, and acts accordingly.

Mr. JACKSON. We do, absolutely, in reference to the utilities. That is not possible with the railroads as yet, and the reason is this, in my opinion: Congress has said that the railroads should be competitive in their activities, and through competition the public would get the benefit, and they have insisted on that competition. You will find that in the fifth section of the interstate-commerce act, and it is also in the Sherman Antitrust Act.



That has gone on for years and years and years, and they have been directed by Congress to do those very things which they have done. Some railroads have been successful and others have not been.

Personally, looking back over the years, would it not have been better for everybody to have had one great big terminal for all the railroads, instead of having one terminal for each road, and to have allowed the competitive business to be wiped out in that way?

Mr. SIMS. I am aware of the fact that the railroads, because of being competing lines, have had to do just what every other competitor has done, and that they have tried to make the service attractive even if they had to destroy their weaker competitors to do it.

Mr. JACKSON. They were able to do it, practically.

Mr. SIMS. Even while the railroads are operated as competitive systems, could not Congress require the railroad companies to make a charge for the service rendered by the railroads at these terminals? I mean make a reasonable charge for the service to be rendered because of this special expenditure for the building and maintenance of these terminals?

Mr. JACKSON. I think it could pass such a law. You mean that those who get the benefit of the extra expenditures in the building and maintenance of terminals should pay for it?

Mr. SIMS. That is exactly what I mean.

Mr. JACKSON. Yes, sir.

Mr. SIMS. And get it, regardless of whether they are competitors although I admit that competition has brought these things about?

Mr. JACKSON. Yes, sir.

Mr. SIMS. I judge from what you said that you think that the public can not be best served, as a whole, by the railroads, through the competitive system.

Mr. JACKSON. I do not think the competitive system is a success. Does that answer your question?

Mr. SIMS. It does, in a general way.

Mr. JACKSON. I think that cooperation and coordination should be encouraged and should be brought about.

Mr. SIMS. I will ask you if the competitive system—

Mr. JACKSON. I am answering your question exactly as I would have answered it a year ago if you had put the same question to me. I do not mean by answering that question in this way to be passing on any particular present situation or solution. I think the competitive system has not brought good results and that coordination should be the principle in force.

Mr. SIMS. I want to ask you if you do not think the competitive system has brought about unnecessary duplication of investment of capital for railroad purposes?

Mr. JACKSON. Yes, sir; I do.

Mr. SIMS. And has brought about unnecessary expense to the railroads on that account?

Mr. JACKSON. Yes, sir.

Mr. SIMS. And that it will be in the public interest to pass such legislation as will make such duplications and expenditures in the future unnecessary.

Mr. JACKSON. I think that something along that line should be brought about. We have done that in Wisconsin to some extent.

You can not build a railroad in Wisconsin without getting a certificate of convenience and necessity.

Mr. SIMS. Do you think the Interstate Commerce Commission should possess such power as to interstate railroads?

Mr. JACKSON. General power; yes, sir.

Mr. SIMS. I will not ask you any further questions at this time.

Mr. ESCH. Under our State laws, Mr. Jackson, your commission is given power to fix both maximum and minimum rates.

Mr. JACKSON. Yes, sir.

Mr. ESCH. As a matter of practice the commission seeks to determine the actual rate, does it not?

Mr. JACKSON. The actual fair cost, on a cost basis, not solely on an interest basis.

Mr. ESCH. That is the principle that actuates your commission in determining the rates in our State?

Mr. JACKSON. It has a great deal to do with it.

Mr. ESCH. That was due largely to the investigations of Mr. Ericsson on cost?

Mr. JACKSON. I think so.

Mr. ESCH. Did he try to segregate passenger and freight units of cost?

Mr. JACKSON. Yes; he did.

Mr. ESCH. Are you applying some of the data he procured in your application of passenger rates?

Mr. JACKSON. The commission had jurisdiction over the passenger rates of the State, and Mr. Meyer and Mr. Ericsson and Mr. Barnes fixed the rate at  $2\frac{1}{2}$  cents, and then the legislature passed a law which fixed the rate at 2 cents, and the commission has not had any jurisdiction over it now.

Mr. DOREMUS. Do you believe in the preservation and enforcement of the principle of competition between rail and water carriers?

Mr. JACKSON. You are asking me some big questions. I do not think that the principle of competition should be allowed to destroy transportation by water, and that if there is an actual economic saving in transportation by water, the thing should be so regulated that transportation by water would be developed.

Mr. ESCH. Do you think in carrying out that principle Congress should give the Interstate Commerce Commission power to fix a minimum rate?

Mr. JACKSON. I did not think of it in that connection. I think they should, even in connection with that.

Mr. ESCH. If they had that power could not they keep alive the water transportation on the inland rivers?

Mr. JACKSON. I am inclined to think they could have at one time. Whether they could now or not I do not know. I understand it would have preserved them, perhaps, if that had been in effect at one time.

Mr. SIMS. Mr. Chairman, I have here a letter which was addressed to Judge Adamson by Mr. Newman Erb, of New York, inclosing a copy of the English "railway companies act of August, 1867," and which Judge Adamson requests to be made a part of the record.

The CHAIRMAN. If there is no objection, the letter and the copy of the English act will be made a part of the record.

(The documents referred to are as follows:)

NEWMAN ERB, 42 BROADWAY,

New York, December 11, 1917.

Hon. W. C. ADAMSON,

*Member of House of Representatives, Washington, D. C.*

MY DEAR JUDGE: Agreeable to promise made to you yesterday, I inclose you herewith a copy of the English "railway companies act of August, 1867," which is intended to avoid receiverships of railroads and has had that effect in the experience of England. It gives to the security holders under the guiding control of the courts the right to adjust their securities to the company's needs and to meet temporary emergencies by adopting any reasonable plan for that purpose when assented to in writing by three-fourths in value of the holders of such mortgages or bonds, and shall be deemed to be assented to by the holders of debenture stock of the company when it is assented to in writing by three-fourths in value of the holders of such stock.

Our present method of dealing with railroad control and reorganizations amounts to practically disfranchisement of the holders of the securities and of the stockholders, has entailed millions of losses upon them, and is one of the fundamental reasons for impaired railroad credit.

No present statutory method exists for affording temporary or permanent relief to embarrassed railroad companies without the unanimous consent of the security holders. Prompt receiverships have become necessary under this practice, and it is possible for a single bondholder or stockholder to force a complete reorganization of a railroad, although its embarrassments may be but temporary.

The English act has been in force for 50 years and has proved an effective aid in stabilizing the value of railroad securities and preventing exploitations through uninterested agencies of railroad reorganizations.

Very truly, yours,

NEWMAN ERB.

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## THE RAILWAY COMPANIES ACT OF AUGUST, 1867.

### PROTECTION OF ROLLING STOCK AND PLANT.

The engines, tenders, carriages, trucks, machinery, tools, fittings, materials, and effects, constituting the rolling stock and plant used or provided by a company for the purposes of the traffic on their railway, or of their stations or workshops, shall not, after their railway or any part thereof is open for public traffic, be liable to be taken in execution at law or in equity at any time after the passing of this act.

### ARRANGEMENTS.

Where a company are unable to meet their engagements with their creditors, the directors may prepare a scheme of arrangement between the company and their creditors (with or without provisions for settling and defining any rights of shareholders of the company as among themselves, and for raising, if necessary, additional share and loan capital, or either of them), and may file the same in the court of chancery in England or in Ireland, according to the situation of the principal office of the company, with a declaration in writing under the common seal of the company to the effect that the company are unable to meet their engagements with their creditors, and with an affidavit of the truth of such declaration made by the chairman of the board of directors and by the other directors, or the major part in number of them, to the best of their respective judgment and belief.

After the filing of the scheme, the court may, on the application of the company on summons or motion in a summary way, restrain any action against the company on such terms as the court thinks fit.

Notice of the filing of the scheme shall be published in the Gazette.

After such publication of notice no execution, attachment, or other process against the property of the company shall be available without leave of court, to be obtained on summons or motion in a summary way.

The scheme shall be deemed to be assented to by the holders of mortgages or bonds issued under the authority of the company's special acts when it is assented to in writing by three-fourths in value of the holders of such mortgages or bonds, and shall be deemed to be assented to by the holders of debenture stock of the company when it is assented to in writing by three-fourths in value of the holders of such stock.

Where any rent charge or other payment is charged on receipts of or is payable by the company in consideration of the purchase of the undertaking of another company, the scheme shall be deemed to be assented to by the holders of such rent charge or other payment when it is assented to in writing by three fourths in value of such holders



The scheme shall be deemed to be assented to by the guaranteed or preference shareholders of the company when it is assented to in writing as follows: If there is only one class of guaranteed or preference shareholders, then by three-fourths in value of that class, and if there are more classes of guaranteed or preference shareholders than one, then by three-fourths in value of each such class.

The scheme shall be deemed to be assented to by the ordinary shareholders of the company when it is assented to at an extraordinary general meeting of the company specially called for that purpose.

Where the company are lessees of a railway the scheme shall be deemed to be assented to by the leasing company when it is assented to as follows:

In writing by three-fourths in value of the holders of mortgages, bonds, and debenture stock of the leasing company.

If there is only one class of guaranteed or preference shareholders of the leasing company, then in writing by three-fourths in value of that class, and if there are more classes of guaranteed or preference shareholders in the leasing company than one, then in writing by three-fourths in value of each such class.

By the ordinary shareholders of the leasing company at an extraordinary general meeting of that company especially called for that purpose.

Provided that the assent to the scheme of any class of holders of mortgages, bonds, or debenture stock, or of any class of holders of a rent charge or other payment as aforesaid, or of any class of guaranteed or preference shareholders, or of a leasing company, shall not be requisite in case the scheme does not prejudicially affect any right or interest of such class or company.

If at any time within three months after the filing of the scheme, or within such extended time as the court, from time to time, thinks fit to allow, the directors of the company consider the scheme to be assented to as by this act required, they may apply to the court by petition in a summary way for confirmation of the scheme.

Notice of any such application, when intended, shall be published in the Gazette.

After hearing the directors, and any creditors, shareholders, or other parties whom the court thinks entitled to be heard on the application, the court, if satisfied that the scheme has been within three months after the filing of it, or such extended time (if any) as the court has allowed, assented to as required by this act, and that no sufficient objection to the scheme has been established, may confirm the scheme.

The scheme when confirmed shall be enrolled in the court, and thenceforth the same shall be binding and effectual in favor of the company, and all parties assenting thereto or bound thereby have the like effect as if they had been enacted by Parliament.

Notice of the confirmation and enrollment of the scheme shall be published in the Gazette.

The company shall at all times keep at their principal office printed copies of the scheme, when confirmed and enrolled and shall sell such copies to all persons desiring to buy the same at a reasonable price, not exceeding 6 pence for each copy.

If the company fail to comply with this provision, they shall be liable to a penalty not exceeding £20, and to a further penalty not exceeding £5, for every day during which such failure continues after the first penalty is incurred, which penalties shall be recovered and applied as penalties under "The Railways Clauses Consolidation Act, 1845" (z), are recoverable and applicable.

Where a company whose principal office is situate in England have a railway or part of a railway in Scotland the following provisions shall have effect:

(1) Any scheme under this act shall be filed in the court of chancery in England.

(2) Where after the filing of the scheme any person who is not amenable to the jurisdiction of the court of chancery in England brings any action against the company in Scotland, the court of session may on the application of the company by petition in a summary way sist, stay, or interdict the same on such terms as the court thinks fit.

(3) Notice of the filing of the scheme shall be published in the Edinburgh Gazette, and after such publication no diligence against the property in Scotland shall be available for any person who is not amenable to the jurisdiction of the court of chancery in England without the leave of the court of session to be obtained on petition in a summary way:

In this section the term "court of session" means either division of the court of session, or in time of vacation the lord ordinary officiating on the bills.

The lord chancellor of Great Britain, with the advice and assistance of the lords justices of the court of appeals in chancery, the master of the rolls and the vice chancellors or any two of those judges, and the lord chancellor of Ireland, with the advice and assistance of the lord justice of appeal in chancery and the master of the rolls or one of them, may from time to time make general orders for the regulation of the practice of the courts of chancery in England (a) and Ireland, respectively, under this act.

(Thereupon the committee adjourned until Friday, December 14, 1917, at 10 o'clock a. m.)

# INTERSTATE AND FOREIGN TRANSPORTATION.

FRIDAY, DECEMBER 14, 1917.

CONGRESS OF THE UNITED STATES,  
JOINT COMMITTEE ON INTERSTATE COMMERCE,  
*Washington, D. C.*

The joint committee met at 10 o'clock a. m., pursuant to adjournment, Senator Francis G. Newlands, presiding.

## SUPPLEMENTARY STATEMENT OF SMITH W. BROOKHART, OF WASHINGTON, IOWA.

The CHAIRMAN. Mr. Brookhart, you may proceed.

Mr. BROOKHART. Mr. Chairman and gentlemen of the committee, as a matter of saving time I am going to adhere pretty closely to my manuscript, so that I will surely finish promptly.

In my former statement for Government ownership I presented the economic reasons for its adoption in peace times. For instance, I showed you that the Government can borrow the capital at a lower rate of interest than it can be borrowed by private ownership and much lower than the net earnings of stocks. The saving to the Government on this item would be over \$500,000,000 per year. Upon the advance or unearned increment in real estate there would be another saving of over \$300,000,000 annually. I also quoted the opinions of high authority, both English and American, to the effect that there would be another saving of over \$400,000,000 per year by the elimination of the waste of competition. These three items make a grand total of over \$1,200,000,000 as the annual economic saving in time of peace. In time of war these amounts will be vastly increased. While it is true that the rate of interest has advanced to the Government because of the war, still it is not doubted that the Government can borrow money for railroad purposes now at a much lower rate of interest than private ownership would pay. As for real estate values, they are mounting with other war prices, and the unearned increment would be far above my figures. As for the waste of competition, it is perhaps doubled by the enormous war traffic. Therefore, the war has greatly emphasized the economic arguments for Government ownership of the railroads. In addition to this, the war has brought the crisis which private ownership can never meet. When I appeared before you a year ago, you were giving scant consideration to Government ownership. To-day temporary Government ownership and operation of all the railroads is receiving the greatest consideration not only of this committee, but of the whole Congress, and also of the Executive Government. I now believe you will take over and operate all of the railroads before the grass grows again, if not before the new year dawns. If you do that, and if you hold on to them after the war is over, until you see what ought to be done with them, as your

vice chairman stated at the beginning of this session, I do not believe they will ever again be surrendered into private hands. Such a result is to be welcomed and not feared.

It has been persistently asserted by the carriers that their credit has broken down because of low rates and State regulation. In answer to the first I desire to say that the American rates, both passenger and freight, are the highest in the world. The passenger rates are more than double what they usually are in the countries where Government ownership prevails. I have shown you that our terminal charge in the United States is more than the whole German freight rate, and I desire to introduce the following statement in proof thereof.

I will say in reference to that that no one has appeared before this committee to seriously controvert that conclusion, figured right down to the basis, and I have here tables showing exactly how I figured it. It will stand any test they desire to put upon it. I will not read this table, but desire to have it printed in the record.

(The table referred to is here printed in full, as follows:)

*Terminal expense in American rates higher than whole German rate.*

[Ripley, Railroads, Rates and Regulation, page 364, for the McCraham System.]

Sixth class, New York to Chicago, 920 miles:	Cents.
Haulage per 100 pounds.....	19
Terminal per 100 pounds, long or short haul.....	6
Total rate.....	25
Haulage per ton.....	380
Terminal per ton.....	120
Haulage, 1 ton 1 mile, 380+920.....	.413
Terminal, 1 ton 1 mile+the average (120+250) haul in 1910.....	.480
Total ton-mile rate, sixth class, New York to Chicago, 0.413+0.480 based on average haul.....	.893
Average ton-mile rate, United States, 1910.....	.753
Excess sixth class over United States.....	.140

In order to find the exact terminal charge in the United States, it is necessary to reduce the 0.480 cent sixth-class terminal by a proportion of the above excess of 0.140 cents, but not all of it. However, in order to be safe beyond question, I have reduced it by the whole amount and that leaves the average terminal charge in the United States 0.340 cent per ton-mile. Multiplying this by 250, the average haul, gives 85 cents as the terminal expense per ton in the United States. In Germany the whole rate, both terminal and haulage, was 1.248 cents in 1910. Multiplying this by 68, the average haul gives 84.9 cents, the whole German rate per ton.

If we had only reduced the United States terminal by one-half of the sixth-class excess, it would have been 0.410 cent per ton, and multiplied by 250 gives 102.5 cents terminal per ton, which is probably nearer right than the 85 cents I have used. In the rates above sixth class both the terminal and haulage are higher. In the rates below sixth class both the terminal and haulage are lower. Therefore in reducing sixth class to the average of the United States, both terminal and haulage should be reduced. As terminal is over half of the sixth class based on the average haul, it is probably entitled to over half of the reduction, but I have only given it half in the last figures above used.



If this conclusion be true, and if in spite of these high rates the credit of our railroads has broken down and if it takes still higher rates to restore their control, then private ownership is a failure of the worst kind. However, I can not accept the claim that their credit has been affected by anything but the war crisis, which also affects all credit.

In my former testimony I introduced Chart Z, showing a comparison of interest yields of railroad bonds and a combination of Government and municipal bonds, called the pure-money rate, over a period of 15 years ending with 1914. The chart did not show United States Government bonds alone and I have amended it and added a line for that purpose. I now desire to introduce the amended chart and the lower line thereon represents the average actual yield in interest rate of U. S. 4's during that period.

I also desire to introduce the figures upon which this chart is based.

(The chart referred to by the witness, and the figures on which same is based, are here printed in full on page 2190.)

	1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914
U. S. 4's average actual yield	2.15	1.97	1.98	1.99	2.09	2.00	2.04	2.18	2.44	2.52	2.73	2.68	2.67	2.74	2.73
Pure-money rate—Average yields 4 Governments and 20 largest cities in United States	3.02	3.01	3.05	3.08	3.17	3.11	3.22	3.42	3.47	3.41	3.54	3.55	3.59	3.82	3.77
Average actual yields northwestern railroads (45 bonds)	3.90	3.90	3.90	4.10	4.10	3.90	4.00	4.40	4.30	4.10	4.20	4.20	4.30	4.60	4.50
Average actual yields southwestern railroads (41 bonds)	4.80	4.40	4.40	4.60	4.00	4.30	4.49	4.70	4.70	4.40	4.60	4.60	4.70	5.00	5.10
Average actual yields northwestern and southwestern railroads combined (86 bonds)	4.30	4.10	4.10	4.30	4.30	4.10	4.20	4.50	4.50	4.20	4.40	4.40	4.50	4.80	4.80
Excess of combined railroad rate over Government rate	2.12	2.13	2.12	2.31	2.21	2.10	2.16	2.32	2.06	1.68	1.67	1.72	1.83	2.06	2.07
Excess of northwestern railroads rate over Government rate	1.72	1.93	1.92	2.09	2.01	1.90	1.96	2.22	1.86	1.58	1.47	1.52	1.63	1.86	1.77

The CHAIRMAN. What do you mean by pure-money rate?

Mr. BROOKHART. The pure-money rate was designated as a combination for average of these four Governments, the United States, France, England, and Germany, and the 20 larger cities in the United States. It is an arbitrary thing to use, but that seemed to be a convenient name to use for it. Taking the average of those four Governments, and the 20 larger cities, and taking their actual bond sales, actual yields of interest, and averaging them up with very great labor and investigation, we found this to be true.

An examination of this table shows that the rate of interest advanced to the combined western railroads only .50 per cent in the 15 years. The pure-money rate, being an average of the four Governments and 20 largest cities in the United States, advanced .75 per cent. The United States Government rate advanced .55 per cent. Therefore the interest rate to these railroads was steadier and advanced less than either the pure money or Government rates. The table also shows that the combined rate of the western railroads exceeded the Government rate from 1.67 per cent to 2.32 per cent and an average of 2.04 per cent for the period. It also shows that the rate to the northwestern railroads alone exceeded the Government rate by an average of 1.75 per cent for the period, and it is believed this is about the average excess for the whole United States.

In other words, during this period I believe the Government of the United States could have borrowed this money at about 1.75

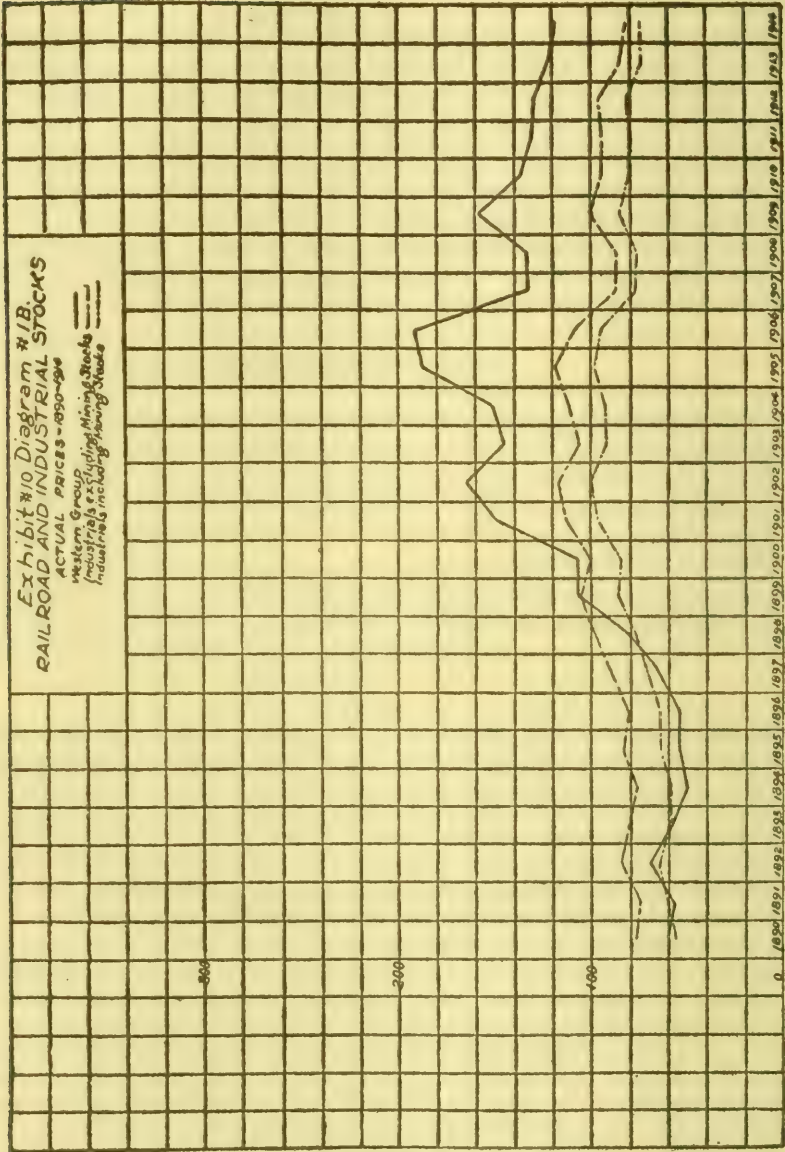


CHART Y.

per cent less than the railroads did, and I believe that now, for railroad purposes that that margin continues and is perhaps somewhat enlarged even under these war conditions. Of course that would have to be found out by actual trial.

I also introduced chart Y showing the variation of railroad stocks in comparison with industrials over a period of 25 years ending with 1914. I did not name the industrial stocks used in this comparison and I now desire to put the names in the record. There were the American Cotton Oil Co., the American Sugar Refining Co., the American Telegraph & Cable, the Consolidated Gas Co., of New York, the La Clede Gas Co. of St. Louis, the Pacific Mail & Steamship Co., and the Western Union Telegraph Co.

These are all highest class industrial companies, and combined with them in the other line were the mining companies, and here are their names:

The American Coal Co., the Consolidated Coal Co., the Homestake Mining Co., the Ontario Mining Co., and the Quicksilver Mining Co. And this chart shows railroad stocks doing very much better than these best industrials. I again introduce the chart in connection with this statement.

Also the very best and most reliable mining stocks in the United States.

(The chart referred to by the witness is here printed in full on page 2192.)

In the Fifteen Per Cent Case the carriers were asked to file statements of all their bond issues during the past 10 years and of the actual yield in interest rate upon each issue as they were actually sold. The table shows their answers in so far as they did answer as to all issues of \$400,000 or more and as to the years 1907, 1914, 1915, 1916, and 1917. Twenty-eight of them answered.

The arithmetical average of the interest rates is as follows:

	Arithmetical average.
1907.....	5.3 per cent.
1914.....	5.0 per cent.
1915.....	4.8 per cent.
1916.....	4.6 per cent.
1917.....	4.7 per cent.

This is the arithmetical average. I just took the number of issues and the per cent in each issue, and divided it by the number. That is not a true average, because you ought to take the amounts allowed, but that is a big job and I have only figured that later on some of the years.

I have also figured the actual average for 1907 and 1916. I took these years because 1907 is the first year in which the answers are given and 1916 is the last complete year. The following is the result:

	Actual average.
1907.....	5.17 per cent.
1916.....	4.86 per cent.

This is almost as favorable as the arithmetical average and the interest rate actually declined 0.31 of 1 per cent in 9 years to these 28 roads, ending with 1916.



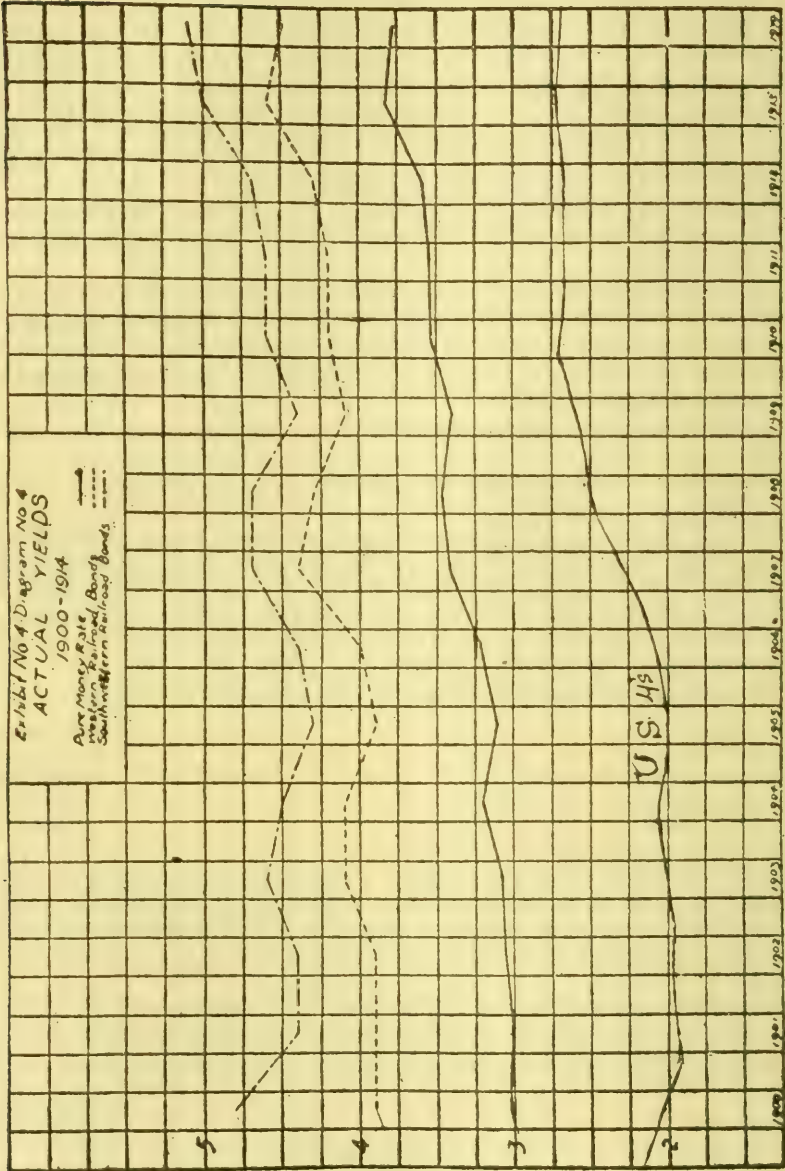


CHART Z.

From these tables it is significant that the interest rate is less in 1916 and 1917 than in 1914, and a very significant fact is that the Pennsylvania on April 10, 1917, sold \$20,000,000 worth of short-time  $3\frac{1}{2}$  per cent notes at par and on the previous day sold \$60,000,000 long-term  $4\frac{1}{2}$  general mortgage bonds at 4.8 per cent. These facts make a myth and a delusion out of the claim of a breakdown in railway credit.

(The table referred to is herewith printed in full, as follows:)

NEW ISSUES OVER \$400,000 1907, 1914, 1915, 1916, 1917.

*Issue sold as given under column of year—Figures for par and yield.*

		1915.
Atchison, Topeka & Santa Fe.	Rocky Mt. Div. 1st mtge. 4's.....	\$3,000,000@4.0
	Convertible 4's.....	977,000@4.0
	Trans. Con. St. L.....	5,545,000@4.8
Atlantic Coast Line.....		1916.
	1st Cons. mtge. 4's.....	790,000@4.2
	Equip. A 4's.....	4,500,000@4.9
	3 year g. notes 5's.....	5,000,000@6.7
Central of Georgia.....		1914.
	1st cons. mtge. 4's.....	2,000,000@4.4
		1907.
Central of Georgia.....	Equip. oblig. ser. K 5's.....	760,000@5.0
	Cons. mtge. 5's.....	500,000@5.0
		1914.
	Gen. and ref. mtge. 5's.....	4,077,000@5.0
		1916.
Chesapeake & Ohio.....	Equip. oblig. ser. L. $4\frac{1}{2}$ 's.....	1,000,000@4.8
	Demand loan 5%.....	450,000@5.0
		1907.
	Big Sandy Ry. Co. 4's.....	771,000@4.9
	Gen. mtge. $4\frac{1}{2}$ 's.....	1,000,000@4.5
		1914.
	Coal Riv. Ry. 4's.....	649,000@5.3
	C. O Ry. 5 yr. 5's sec. notes.....	28,000,000@6.2
	C. O. Ry. eq. tr. "N," $4\frac{1}{2}$ 's.....	1,700,000@4.9
		1915.
Chicago, Burlington & Quincy.	C. O. $5\frac{1}{2}\%$ Cen. Loc. & Car Works.....	725,000@5.5
		1916.
	Eq. tr. ser. "O," $4\frac{1}{2}$ 's.....	3,160,000@4.5
	5% C. O. conv. 30 yr. g. bonds.....	40,100,000@5.7
		1917.
	Eq. tr. "P," $4\frac{1}{2}$ 's.....	2,500,000@4.5
	$4\frac{1}{2}\%$ eq. "R".....	3,780,000@4.6
Chicago, Indianapolis & Louisville.	Gen. mtge. 1958 4's.....	6,000,000@4.4
		1915.
	Gen. mtge. 1958 4's.....	1,000,000@4.4
Chicago, St. Paul, Minn. & Omaha.		1914.
	Gen. mtge. 5's.....	1,500,000@5.2
Chicago & North Western...	Deb. gold 1930 5's.....	1,700,000@4.9
		1915.
	Deb. old 1930 5's.....	2,000,000@5.1
	Cons. mtge. bonds 6's.....	400,000@4.7
Chicago & North Western...		1914.
	Gen. mtge. g. 5's.....	18,054,000@5.2
		1916.
Chicago & North Western...	Gen. mtge. g. 5's.....	5,000,000@4.4
	Gen. mtge. g. 5's.....	2,972,000@4.5

		1907.
Delaware & Hudson.....	1st lien eq. 1922 4½'s.....	\$10,000,000@5.4
		1914.
	1st ref. mtge. 1943 4's.....	4,500,000@4.3
		1916.
	5% 20 yr. conv. g. bonds, '35.....	14,451,000@5.2
		1907.
Hocking Valley.....	Eq. oblig. 4's.....	458,000@5.6
	Eq. oblig. 4's.....	960,000@5.6
	Eq. oblig. 4's.....	740,000@5.6
	Eq. oblig. 4's.....	500,000@6.5
		1914.
	Eq. oblig. 4½'s.....	800,000@4.7
	1st and ref. 1943 4's.....	4,500,000@4.3
		1915.
	Eq. oblig. 5's.....	4,000,000@5.5
		1914.
Illinois Central.....	Ref. mtge. 1955 4's.....	2,000,000@4.6
	St. L. & N. O. Jt. A. 5's.....	7,400,000@5.0
	St. L. & N. O. Jt. A. 5's.....	2,600,000@5.0
		1915.
	Ga. So. & Fla. Ry. eq. ser. E, 4½'s....	450,000@4.6
		1916.
	Eq. tr. of I. C. "D," 4½'s.....	1,900,000@4.5
		1917.
	Ref. mtge. 1955 4's.....	3,000,000@4.0
		1907.
Kanawha & Mich. Ry.....	2d mtge. 5's.....	2,078,000@5.9
		1914.
	1914 ser. 4½ eq. tr.....	1,200,000@4.5
	Eq. tr. ser. D, 4½'s.....	600,000@5.0
		1907.
Lehigh & N. E. R. R.....	Gen. mtge. 5's.....	1,500,000@4.6
		1914.
	Ser. E. eq. tr. 4½'s.....	3,507,000@5.3
		1916.
	Somerset Ry. Co—4 yr. 5% notes '11..	800,000@4.6
		1915.
Maine Central.....	Portland, Rumford & Falls Ry. 1935 4's.	300,000@4.8
	1st & ref. mtge. ser. B, 4½'s.....	6,000,000@4.6
		1907.
Minn., St. P. & S. S. M.....	1st cons. 4's '38.....	1,750,000@4.2
	1st cons. 4's '38.....	1,750,000@4.2
	Ser. A, 5's.....	1,935,000@4.2
		1914.
	1st cons. 4's.....	3,824,000@4.5
		1915.
	1st cons. 4's.....	2,637,000@4.8
		1916.
	Eq. notes "G," 4½'s.....	1,500,000@4.8
		1907.
Wisconsin Central.....	Sup. & Dul. Div. & Term 4's.....	1,733,000@5.0
	Sup. & Dul. Div. & Term 4's.....	1,677,000@5.0
		1915.
	3 yr. gold notes.....	1,000,000@4.5
		1914.
Minn. & St. Louis.....	Ref. and ext. 5's.....	686,000@6.3
		1915.
	Eq. D. 6%.....	400,000@6.5
		1917.
	Eq. E, 5%.....	1,700,000@6.0
		1914.
Missouri Pacific.....	1st and ref. 6's.....	29,423,000@6.0
Mobile & Ohio.....	Eq. ser. H. 5's.....	1,009,000@5.2
		1916.
	Eq. ser. J, 4½'s.....	950,000@4.8



		1915.
Nashville, Chattanooga & St. Louis.	1st cons. mtge. 5's 1928.....	\$1,500,000@4.4
		1916.
	1st cons. mtge. 5's 1928.....	700,000@4.5
		1907.
New York, Chicago & St. Louis.	1903 deb. 4's.....	1,000,000@5.4
	1903 deb. 4's.....	1,000,000@5.4
	1903 deb. 4's.....	1,000,000@5.4
		1916.
	Eq. tr. cert. 4½'s.....	1,100,000@4.9
		1907.
N. Y. N. H. & H.....	Deb. 4's, 1922.....	27,985,000@5.0
	2 yr. deb., '09.....	1,500,000@5.3
	3 yr. deb., '10.....	3,500,000@5.2
	4 yr. deb., '11.....	2,150,000@4.7
	5 yr. deb., '12.....	6,400,000@5.0
	Prov. Sec. Co. gold deb. 4's 1957.....	19,899,000@4.0
		1914.
	Coll. g. notes 1915.....	20,000,000@7.5
		1916.
N. Y. O. & W.....	Eq. tr. D, 4½'s.....	490,000@4.8
		1907.
Norfolk & Western.....	Com. 10-25 4's.....	14,576,000@4.2
		1914.
	Eq. tr. 4½ certif. ser. 1914.....	10,000,000@4.7
		1907.
Northern Pacific.....	Prior lien 4% bonds.....	1,500,000@4.0
		1914.
	Prior lien 4% bonds.....	2,597,000@4.3
	Ref. and imp. mtge. 4½'s.....	20,000,000@4.7
		1907.
Penn. System.....	Penn. R. R. coll. g. 3 year 5's.....	60,000,000@5.6
	Penn. R. R. ep. tr. certif. 4's.....	8,929,257@4.1
	P. C. C. & St. L. short term 1908 notes 6's.....	500,000@6.0
	P. C. C. & St. L. short term 1908 notes 6's.....	1,500,000@6.0
	P. C. C. & St. L. short term 1908 notes 6's.....	500,000@6.0
	P. C. C. & St. L. cons. mtge. ser. G, 4's.....	6,000,000@4.3
		1914.
	Phil. & Balt.—1st mtge. 4's 1943.....	1,000,000@4.2
	Connecting Ry. Co.—1st mtge. 4's.....	541,000@4.0
	P. C. C. & St. L.—ser. J, 4½'s.....	3,494,000@4.5
	Penn. R. R. short term notes 6's 1915.....	5,000,000@6.0
	Penn. R. R. short term notes 6's 1915.....	5,000,000@6.0
	Penn. R. R. short term notes 5¾ 1915..	1,200,000@5.8
	Penn. R. R. short term notes 5¾ 1915..	400,000@5.8
	Pitts., Youngstown & Ashta., 1st gen. mtge. 4's.....	510,000@4.0
		1907.
	Penn. Co. eq. tr. certif. 4's.....	2,140,823@4.1
		1914.
	Penn. Co.—notes 4's—1914.....	6,000,000@4.0
	Penn. Co.—notes 4's—1914.....	5,000,000@4.0
	Penn. Co.—notes 4's—1914.....	700,000@4.0
	Penn. Co.—notes 6's—1916.....	6,000,000@6.0
	L. T. R. R. R. eq. tr. certif. 4½'s.....	1,050,000@4.5
		1915.
	Cons. mtge. 4½'s.....	49,000,000@4.5
	4½% gen. mtge. 1965.....	64,286,000@4.7
	Penn. Co.—short term notes 3¾.....	6,000,000@3.8
		1916.
Bessemer & Lake Erie—Girard Equip.	tr. 5's.....	3,600,000@5.0
	Demand short term notes 3's.....	3,000,000@3.0
	Demand short term notes 3's.....	4,000,000@3.0
	Demand short term notes 3¾.....	20,000,000@3.8

		1917.
Penn. System (continued)...	Gen. mtge. 4½ temp. certif.....	\$60,000,000@4.8
	Short term demand notes 3½'s.....	20,000,000@3.5
	Phila., Balt. & Wash.—short term 3½'s.	1,000,000@3.5
	1916.	
	Connecting Ry. 1st mtge. 4's.....	3,974,000@4.0
	Pitts., Youngstown & Ashta. 1st gen. mtge. 4's.....	465,000@4.0
		1907.
Seaboard.....	Gen. mtge. and coll. tr. 5's.....	6,345,000@5.6
	Eq. tr. bonds "I," 5's.....	1,300,000@6.9
	Eq. tr. ser. J, 5's.....	900,000@6.7
	2-year coll. tr. 6's.....	700,000@8.1
		1914.
	Eq. tr. Q, 5's.....	1,440,000@4.8
		1907.
Southern.....	1st cons. mtge. 5's, '94.....	1,950,000@5.4
	Cin., N. O. & T. P.—Eq. 5's.....	441,600@5.0
	"Constr. notes," 6's.....	500,000@6.0
	So. Ry. develop. & gen. mtge 4's.....	5,000,000@4.7
	So. Ry. 3-year 5% notes.....	15,000,000@6.9
		1914.
	So. Ry. 3-year coll. 5's.....	10,000,000@5.9
	So. Ry. Eq. Tr. "S," 5's.....	4,300,000@5.5
	1st cons. mtge. 5's, '94.....	1,000,000@4.8
	1st cons. mtge. 5's, '94.....	2,414,000@4.8
	1st cons. mtge. 5's, '94.....	4,722,000@5.3
		1915.
	1st cons. mtge. 5's, '94.....	1,925,000@5.1
		1916.
	1-year notes, 5½ "A".....	5,000,000@5.5
	1st cons. mtge. 5's.....	1,100,000@5.1
	Eq. T. 4½'s.....	4,700,000@4.7
	Eq. 4½'s.....	5,100,000@4.7
	Prom. note 5½'s.....	6,000,000@5.5
		1917.
	2-year secured notes, 5's.....	25,000,000@5.6
	1st cons. mtge. ser. A, 5's.....	1,350,000@5.3
		1916.
	Eq. tr. ser. E, 4½'s.....	1,100,000@4.9
	Cincinnati, N. O. & T. P.—Eq. tr. D, 4½'s.....	1,800,000@4.9
Total issues of 1907.....		\$230,918,680
Total annual interest on same.....		\$11,941,403
Average per cent.....		5.17
Total issues of 1916.....		\$139,957,000
Annual interest charge on same.....		\$6,809,932
Average per cent.....		4.86

These 28 roads give their own answers, as shown in this table. Therefore the interest rate has not advanced to the roads. Their credit has been good. It has been as strong as you could expect the credit to be of private ownership, and if their credit had really failed, it would strengthen my argument in favor of Government ownership. I would not digress if I did not feel so strongly that the facts are perfectly plain that railroad credit is good, as good as any private credit can be, and that the present rate basis, as it exists in the United States——

Mr. ESCH. By way of explanation, does your period of averaging embrace the period of first and second Liberty bond sales, or only prior to that?

Mr. BROOKHART. It would include the averages of all the bond issues up to the date these railroads—the statements in the Fifteen Per Cent Case—that was in April or May.

Mr. ESCH. That would be before the first Liberty bond issue then?

Mr. BROOKHART. That would be before the first Liberty bond issue; yes, sir.

Now there were some filed later than that, in a later trial of the case, in the fall, but I have not those figures yet. I only bring it up to this case that was decided in June. Perhaps some one else will present that up to date.

On page 601 of part 10 the record shows that I quoted Senator Works to the effect that our freight rates are lowest in the world and passenger fares as low with certain exceptions. This is a mistake. It was Senator Weeks and not Senator Works who made this erroneous claim.

Mr. ESCH. You quoted Senator Works?

Mr. BROOKHART. The record shows it. I think I did not, but it is a mistake if I did, to the effect that our freight rates were the lowest in the world, but it was Senator Weeks who made the statement in the Senate, so I desire that corrected.

I gave you the per cent of net earnings on stock of over 70 per cent of the railroads in 1913 showing they all earned over 7 per cent. I also mentioned certain specific roads which brought the total percentage of roads up to 82 per cent. Mr. Hamilton asked if I had the average earnings of all these roads. I did not and I do not have it now, but I desire to call attention to the fact that all of the stock of all the railroads in the United States earned 7.55 per cent net in 1913. I have stated it in the record as 8.31 per cent, but I think there was an error in my former computation. The total stocks for 1913 was \$5,810,231,391. (Schedule of Rates, Interstate Commerce Commission, 1913, page 30.) The total net earnings after deducting all interest, charges, taxes, running expenses and maintenance, was \$439,073,340 which is 7.55 per cent on all stock. Same volume, page 48. If, therefore, all the stock of all the railroads, water and all, had a net earning of 7.55 per cent in 1913, it is a safe proposition to say that the 82 per cent of better roads which I have described earned 9 per cent on all their stock exclusive of water. They did not earn so much in 1914 and 1915, but in 1916 and 1917 they have earned a great deal more.

There is no doubt that these roads earned a like average of over 9 per cent during the past five years.

The CHAIRMAN. Of that 9 per cent a considerable portion of which does not apply to interest or dividends, but goes into the surplus and is applied to the purchase of equipment and additions, and I am told that since the Chicago & Alton case, there has been no effort to issue that surplus invested in additions and extensions to issue stock in its place.

Mr. BROOKHART. Perhaps that is true in some instances. The 9 per cent, as I have figured it, Senator, is after paying all operating expenses, all interest, all taxes, and all maintenance. Of course, the commission prescribes what goes in as the proper maintenance



of their roads, and it allows them liberally no doubt. The carriers conceded in the Western cases they were maintaining their roads, and this is the net earning afterwards. Of course, they do not use all their net earnings as dividends; they go, as you say—they take the surplus out of it and use that to make improvements on their property. But if I, as a farmer, built a barn on my farm, why I furnish the capital for that and I own it afterwards; so if a railroad makes an improvement or an addition or betterment out of earnings that way, that really must, in some way, be charged to capital account, otherwise it is calling upon the public to build the roads for them, and then in turn the private owners own the money that the public has donated, after getting their reasonable return from other sources.

SENATOR CUMMINS. I think, Maj. Brookhart, some confusion may have arisen with regard to the phrase "net earnings." What I mean is the statement you just made is that the sum available for the payment of dividends would pay 9 per cent upon all the stock of the railroads?

MR. BROOKHART. If it were all used for that purpose, yes; that is what I mean. Now, if they use it for some other purpose, it goes to the benefit of the stockholder, just as substantially as if it were paid out to him in dividends. Just like the illustration I used, where I suggested that if I use my money to build a barn—an improvement on my farm—it is mine just as much afterwards, just as much as if I had put the money into the bank or loaned it out on a mortgage.

MR. SIMS. And the farm is worth that much more?

MR. BROOKHART. And the farm is worth that much more. However, in my statement of these net earnings the wording I have used will indicate quite clearly what I mean by "net earnings." There is a technical phrase used by the companies, "net earnings," and "operating expenses," and all those things, that I have disregarded and put in common ordinary language describing the items paid out before we get up to net earnings.

On page 823 of Part II statistics of stock earnings for several years are given by Mr. Kruttschnitt. The percentage of net earnings on the gross amount of stock outstanding for 1913 is given as 5.94 per cent. This is both an unfair and a wholly useless conclusion. An analysis of the facts shows such a conclusion to be of no value whatever.

That is unfair, and that is a useless thing to consider, the earnings on gross amount. Analysis of the facts will show that it is of no value whatever in getting down to the facts.

The gross amount of capital stock for that year was \$8,622,400,821, schedule of rate, page 28. But the net amount of stock after eliminating the duplications was only \$5,840,709,612, schedule of rate, page 50. As the net earnings of all the roads were \$439,073,340, this would be 7.55 per cent on all the net capitalization, and it is of no consequence what rate it might be on a duplicated capitalization. The net capitalization includes all of the original water. A duplicated capitalization is too thin to be called water, perhaps even too thin to be called wind. It has no right to earn anything. If it is totaled in with real stock the average earning is necessarily reduced, but it has no right to be considered at all.

As a concrete example let us take the Rock Island. In 1913 its capital stock was \$75,000,000, largely water. Not satisfied with this

achievement, its manipulators organized the Iowa holding company with a capital stock of \$125,000,000. Not one cent was ever paid in on this stock, and its only excuse for existence was to be the holding angel of the first Rock Island company. As a stroke of financial genius this would look like enough to satisfy ordinary mortals. But the Rock Island crowd seems to have belonged to the immortals. At any rate it organized another holding company in New Jersey with \$150,000,000 of fictitious capital for the purpose of holding the Iowa company while the Iowa company held the original company. It was just like the dog, that chased the cat, that caught the rat, that ate the malt that lay in the house that Jack built. By these duplications in original investment of perhaps less than \$45,000,000 was welled into \$350,000,000. In 1913 the net earnings of the Rock Island were \$3,937,779, or over  $8\frac{3}{4}$  per cent on the actual money invested in stock. It was over  $5\frac{1}{4}$  per cent on the whole original capital, but it was only  $1\frac{1}{8}$  per cent on the gross or duplicated capitalization. Those are the figures Mr. Kruttschnitt used, that gross or duplicated capitalization, in telling you what the stock earnings in 1913 were. For these reasons the statistics given for 1913 and all the other years simply befog the real facts. The same conclusion applies to the alleged earnings of new capital.

Part 10, page 565, for Interstate Commerce Commission opinion on Rock Island.

The Supreme Court has held that railroads are entitled to earn a reasonable return upon the honest and necessary investment or property value. What constitutes such return has never been decided definitely by any tribunal. About two-thirds of our railroad capital is funded debt. Upon this portion of railroad capital I desire to assert that the maximum return should be the interest charge. In all cases of manipulation it should be less. This has not been decided by the courts, but the reasons are obvious. In the first place, the whole people or the Government can borrow the money at a lower rate than any private owner. It would therefore be a travesty to permit a private owner not only to borrow the money at a higher rate of interest but also to pay him a profit or commission besides. Therefore, as a practical matter, the reasonable return on the funded debt is usually the interest on the bonds. This leaves only the question of what is a reasonable return upon stock. Upon this proposition the claim is persistently made that there is no reasonable return upon the new capital put in railways. It is asserted in this record, page 892, by Mr. Kruttschnitt, that the new capital put into railways from 1900 to 1915 is \$9,600,000,000, or \$640,000,000 annually. The only way such figures can be produced is to reckon the duplicated capitalization. This perversion of the facts is found all through the railroad claims. In 1900 the net capitalization of the railroads was \$8,802,156,067. In 1914 (I do not have 1915 before me) it was \$15,719,696,925. These figures eliminate the duplications but not the water. The increase, therefore, was only \$494,000,000 per year and the total was  $2\frac{1}{8}$  billion dollars less than the claims of the railroads, or a reduction of 24 per cent. These facts show their claims to be such a gross exaggeration that further comment is unnecessary.

It has also be claimed in this record that stock is entitled to a 6 per cent dividend. With this I would agree if it was limited to

that amount. There should be a surplus enough to guarantee such dividend, but no more. The roads have almost enough surplus now and should be required to use it for that purpose alone. It is also wrong that a strong road should earn 20 per cent in order to permit a weak one to earn 6 per cent.

I would say on that I do not mean that they should be required to actually use this excess in dividends; if they prefer, as a matter of policy, to use it in improving their roads, I have no objection whatever; it is all right; but when they do use it that way, it should be treated and charged against them in the same way as if they divided it out among themselves as dividends.

Mr. Kruttschnitt introduced a series of charts beginning with No. 10 on page 898 and ending with No. 10 i-1 on page 914. The purpose of these charts is to show a declining railway credit because of declining earnings. The whole conclusion of these charts is based upon the same fallacious theory that an increased operating ratio of expenses shows a decline of net earnings whereas the facts are usually the opposite.

I will digress a moment to talk about the operating ratio. One of the most common things you see in the public print is that the operating ratio of expenses has increased. That is quoted always as an indication that something is wrong with the railroad's revenues. They say: "Last year our operating ratio was 65 per cent and this year it is 70 per cent, we ought to have 70 per cent of our earnings to pay expenses, therefore we are in bad shape." Now let us see about that. Let us take a simple proposition. Suppose you were in business and your gross revenue was \$1,000 and your expenses were \$500; your net revenue would be \$500, and your operating ratio would be 50 per cent. It would be a half and half proposition. Now let us suppose that the next year your gross revenue was \$1,500 and your operating expenses were \$900, then your operating ratio is 60 per cent, it has gone up 10 per cent, but you still have \$600 of profit left; your profits have increased 20 per cent, while the operating ratio increased 10 per cent, so that operating ratio is another one of these camouflage rules that are so often used in the public prints to create a sentiment in favor of broken-down railway earnings, but it has not great merit. These charts, some of them, are on a similar theory.

Chart No. 10 is a comparison of national-bank dividends with railroad dividends. This comparison is interesting but neither very valuable nor very constructive as a guide for railroad returns. In the first place a national bank is not a public utility with the power of eminent domain and of taxation like a railroad. Therefore the law does not limit it to a reasonable return upon its capital investment. The bank does not perform a public service in lending money and the law protects the public with a usury limit. But a bank's earnings depend mostly upon its ability to secure deposits. There is probably not a man in the United States who can not have his choice of banks in which to deposit his money, but his transportation is essentially a monopoly. If, however, these distinctions be waived, and it be conceded that banks and railroads stand upon the same basis, then the banking laws are wrong and the argument is for a reduction of bank earnings and not for an increase of railroad earnings. In that event bank earnings should be lowered to the railroad level and the usury limit reduced accordingly.



The other exhibits are a comparison of nominal rates with commodity prices. This is a logical misfit from every angle. Perhaps it ought to be called a logical monstrosity. The two important things in determining a reasonable return are the actual investment and the net earnings. These depend upon many elements, all of which are left out in the above logic except the nominal rates. Commodity prices may advance, but the volume of business may increase to such an extent that all of these advanced prices will be offset and the net earnings also increased. There may be improvements and economies that work in the same direction. In fact, such has been the result with our railroads. Chart 10 h 4 proves this by the enormous rise in freight revenue and in tons of freight per train, both of which items rise far above operating expenses. But the conclusion reached in Chart 10 l-1 is wholly misleading and is exactly contradicted by 10 h 4. The net income of the railroads in 1900 was \$261,378,787. The net capital stock for the same year, eliminating duplications, but not eliminating water, was \$4,375,360,621. Therefore the net earnings for that year on all capital stock, water and all, was 5.97 per cent. I have already shown that the net earnings for 1913 were likewise 7.55 per cent on all capital stock, water and all, or an increase of 1.58 per cent; 1913 is not better than an average of the past five years. What then is the matter with the division of the dollar in Chart 10 i-1?

That chart, 10 i-1, takes a dollar and shows that in one year, 1900, 17.2 cents of it went for dividends on net earnings, but in 1913 only 11.2 per cent of each dollar went for like purpose. Now here is the fallacy of it.

There is nothing wrong as applied to one dollar, but there are so many more dollars during the past five years and all of those are left out. If the average net income from each dollar during the past five years has been 11.2 cents, then the railroads have taken that amount from so many more dollars that their total net income has been increased by 1.58 per cent on all stock over what 17.2 cents out of each dollar yielded in 1900. The net income increased \$177,694,573 from 1900 to 1913, but the net capital stock only increased \$1,636,144,302. If all of this increased income had been given to the increased capital stock it would have yielded 10.86 per cent. In other words, all the new capital stock in 1913 would have earned 10.86 per cent and the old capital stock 5.97 per cent. The fallacy of the dollar division is the same as the fallacy of the operating ratio.

It has been suggested that Government ownership would entirely wipe out State regulation. With this I do not agree. I think the States would not only continue to exercise their present functions but they would be considerably enlarged. There is no reason why two States should not have joint jurisdiction over interstate matters that affect only the two States involved. Of course if they can not agree then the record must go to the national commission for decision, but in the vast majority of cases they would agree and relieve the national commission of the more local matters, whether intrastate or interstate. The State governments are to continue. We are accustomed to do business with them. It is the American way. It is better to use them either under regulation or ownership than to try

to abolish them and precipitate a fight with the States. A proper use of them under the suggestions of the Interstate Commerce Commission will dispense with the whole regional commission idea.

That such an arrangement would be constitutional is now pretty well settled. It is closely analogous to the principle of the bone-dry laws which have surrendered certain control of interstate commerce to the States, and the Supreme Court has sustained the power of Congress to do this.

In answer to their economic proofs for Government ownership, the railroads have brought before this committee as a witness Mr. W. M. Ackworth, of London. Mr. Ackworth is the most famous English authority on railway economics who writes with the bias of private ownership. However, his statements were much more radical before this committee than any of his former writings. Perhaps there was a special necessity in this choice, because Mr. Ackworth had just finished his labors as a member of the Royal Commission to determine the future management and ownership of the Canadian railways. Mr. Esch, of this committee, asked that a copy of Mr. Ackworth's report as a member of that commission be printed in the record of this hearing. This was done and we find that Mr. Ackworth as a member of that commission joined with Sir Henry Drayton in a majority report recommending that the Dominion of Canada take over and own and operate all of its railroads except the Canadian Pacific. This would make Canada the largest railroad owner in the world, except Germany. Coming so freshly from official action of such gravity and magnitude it probably required very radical statements in opposition to Government ownership as a railroad witness, to fully offset such recent and elaborate official pronouncement in its favor.

In reference to Canada I submit the following statement, "B."

Senator CUMMINS. Do you say that Mr. Ackworth recommends Government ownership in Canada?

Mr. BROOKHART. He certainly did; yes.

Mr. ESCH. Yes; that was the object of having it printed as part of our hearings.

Senator CUMMINS. I have not read the report. I was rather amazed, in view of his testimony here.

Mr. ESCH. I was delegated by the committee to sift out that report. It is a very voluminous report. I did not put all of it in the record, but I put in the principal report, which was signed by Mr. Ackworth and another. The representative of the railroad did not sign. That was Mr. Smith.

Mr. BROOKHART. Mr. Smith, president of the New York Central, Sir Henry Drayton, and Mr. Ackworth signed it, and Mr. Drayton filed a dissenting opinion in that report.

Senator CUMMINS. Have you any extracts from that report?

Mr. BROOKHART. It is in the record almost in full, as Mr. Esch says, following Mr. Ackworth's testimony.

Senator CUMMINS. Have you provided yourself with any extracts here?

Mr. BROOKHART. Yes; I have some extracts from it. However, I have referred to it in my statement as being already in the record, so I have not a great number of extracts from it. Briefly, it recommends the organization of a corporation of \$6,000 capital, just a nominal capital, all to be owned by the Canadian Government,

and that that corporation take over all the railroads, except the Canadian Pacific, and operate them, and that the other Government-owned roads now in Canada be joined into one Government system.

Senator CUMMINS. What roads does the Government own now in Canada?

Mr. BROOKHART. The Intercolonial.

Mr. ESCH. And the Prince Edward Island. It ought to be said in that connection, Maj. Brookhart, that one reason that persuaded the two commissioners to recommend as they did, that the Canadian Government had made very large advances to those two lines, the Grand Trunk Pacific and the other one, and had also guaranteed interest on their bonded indebtedness, and they had become so involved that that was their only way out of it. That is the philosophy of the report.

Mr. BROOKHART. Yes, sir; however, the Government also made very large advances to the Canadian Pacific, which had been prosperous, and the others had not.

The CHAIRMAN. What was the mileage of the roads which this commission recommended be taken over?

Mr. BROOKHART. Some 22,000 miles, as I recollect it.

The CHAIRMAN. What was the mileage outside of that, owned privately?

Mr. ESCH. The Intercolonial has twelve or fifteen hundred miles, the Prince Edward about three hundred miles, and the Canadian Pacific has ten hundred or eleven hundred miles.

Senator CUMMINS. And the Intercolonial and the Prince Edward are already owned and operated by the Government?

Mr. ESCH. Yes.

Senator CUMMINS. Which leaves only the Canadian Pacific; and what was the mileage of the Canadian Pacific?

Mr. BROOKHART. That is set out very lucidly and very much in detail in this report. My recollection is it is about 8,000 or 9,000 miles. It would be more than two-thirds of all the railroads in Canada in Government ownership under Mr. Ackworth's plan.

Mr. SIMS. In other words, the roads they did take over, even though they had been aided by the Government, had been such failures that it became necessary to do this?

Mr. BROOKHART. That is true; yes.

Mr. ESCH. They found large mismanagement and extravagance by the private ownership.

Mr. BROOKHART. I desire to call attention to the fact that the rates on the Intercolonial Railway, which has always been owned and operated by the Government, are very much lower than the rates on the private railways either in Canada or the United States. In 1911 the passenger rate was 1.66 cents per mile, and the per ton freight 0.582. On all Canadian roads, 1912, 1.94 and 0.757. These rates on all the Canadian roads would also be somewhat reduced because the low rates of the Government roads are averaged in with them.

I also desire to submit the proceedings of the Canadian Council of Agriculture upon the report of the Royal Commission, composed of Sir Henry Drayton, W. M. Ackworth, and A. H. Smith, as follows:

The Canadian Council of Agriculture is convinced that for the good of the Commonwealth and in the interests of economic freedom and justice, all railways, telegraph and express companies in the country should be taken over by the Government



and operated by it in behalf of the people. It is not necessary to emphasize the fact that the railway situation, in particular, is full of menace to the permanent prosperity of Canada. That the Government itself is fully seized of the importance of this question is evident from the fact that it appointed a special commission to investigate the whole railway problem, and that the report brought down by the commissioners suggests radical changes in the ownership and operation of the private railroads of the Dominion.

The council demands the nationalization of the entire railway system of Canada for many reasons, which will be made clear as the discussion proceeds, but more particularly because of the example set in this regard by many of the most progressive nations in the world. In 1913—the year that furnishes the most recent data on this problem—there were in the whole world some 690,133 miles of railway. Of this 33 per cent, or 225,712 miles, were owned by various Governments. Outside of North America, there were in the same year 385,000 miles of railway, and of this, 211,147 miles, or 55 per cent, were owned by Governments, and 174,000 miles, or 45 per cent, owned by private corporations.

According to recent information secured from articles published by Mr. E. B. Biggar, 51 out of 65 countries in the world own or operate their railroads. Of important nations in the world Canada and the United States alone have committed themselves, up to the present, to private ownership of railways. Belgium, it is interesting to note, has been the only country that, from the beginning, has owned and operated its entire railway system. On the other hand, Government ownership obtains in the most diverse countries and among the most diverse peoples. Japan and Russia, Switzerland and Austria, Germany and Australia own and operate their own railways. In fact, all the great British Dominions—aside from Canada—and India as well, operate their railroads through Government ownership and control, and out of 17 Crown colonies and protectorates in the British Empire, 12 have Government ownership of railways. These countries and colonies are among the most highly developed and civilized in the world and have not adopted Government ownership through lack of private enterprise. On the contrary, they have been intelligent and resourceful enough to realize that railways, like highways, should be owned, operated, and controlled in the interests of the whole people, and not as a source of private gain. They have seen through the sham contention that competition is all-essential for efficient railway administration and have learned that railroads are, in fact, natural monopolies. And if monopolies, the unearned increment that increases income and piles up wealth with growth of population and industrial development, should be appropriated for the use of the State and not for the enrichment of a particular class in the community.

#### THE BRITISH SYSTEM.

The United Kingdom was, up to the outbreak of war, the last great nation in Europe in which private ownership of railways obtained. But many years before, during the Franco-Prussian War of 1870-71, plans had been formulated for the taking over of the entire railway system of the United Kingdom in the event of war. Immediately upon the outbreak of hostilities, the Government stepped in and took over the railways of Wales, Scotland, and England, and a little later those of Ireland. According to Mr. W. M. Ackworth, a British expert on railway transportation, Government control has met with striking success, and it is scarcely conceivable that the nation will permit private corporations to enter upon possession of the railroads at the conclusion of the war. The plan under which the traffic of England is being conducted has these essentials:

1. Operation of all railroads as a single system is vested in a committee of railway officials.
2. The Government makes no payment for the transportation of supplies or troops.
3. Munitions and soldiers have the right of way over all other traffic.
4. All other business is charged for at regular uniform rates.
5. The Government guarantees to make a settlement at the end of the war by which each road will receive for the period of the war a yearly revenue equal to the earnings of 1913.

If we had taken over our roads in 1916, and enforced that rule, we would have had in the Treasury of the United States, after paying all the expenses, if we had taken the fiscal year of 1913, we would have had a surplus of over \$200,000,000 left. If we had taken the calendar year, which I believe the English took, we would have had \$275,000,000.

Mr. SIMS. Do you mean the Government of the United States would also have had the use of free transportation of troops?

Mr. BROOKHART. No; they would have accounted our transportation paid for as the Government has paid for it. But that would have been the difference.

6. The Government takes over all surplus revenue of the roads and finances current expenses.

It is important to note that politics has played no part whatever in the management of the railways since the Government assumed control. The chief argument, therefore, against Government ownership of railways in the United Kingdom, so insistently presented by corporate interests before the war, has been found to have no validity whatever. Railroad men and not politicians run the roads, and run them with the utmost efficiency. All the carriers are operated under one system managed by an executive committee constituted of the general managers of the various railways. In truth, no other nation in the world has even approximated to the efficiency and wonderful organization which the British Government has shown in taking care of the traffic requirements of the United Kingdom.

Mr. Ackworth describes the financial working out of the English railway scheme as follows:

All Government traffic, whether passenger or freight, is carried for nothing and no accounts are kept. A warrant from the proper military authority ordering a certain movement is the only document required. This obviates an immense amount of bookkeeping for the Government and for the railroad.

As between themselves, each company keeps the whole of its receipts from ordinary businesses, whether the traffic be paid for at the point of origin or at the point of destination. The result of this is that the actual receipts of some companies are very greatly increased as compared with normal, while the receipts of other companies may be correspondingly diminished. Each company keeps a running account with the executive committee. If it is accumulating money beyond what it needs for working expenses and the guaranteed net revenue, the committee will instruct it to pay over whatever sum they require to any other railroad whose receipts are falling short of what is necessary for these purposes.

Mr. Ackworth—and be it remembered that he is one of the ablest of Britain's traffic experts—estimated that under this plan the Government at one and the same time eliminates all transportation costs to itself, while it secures operation of the roads at the point of highest efficiency. What a contrast to the methods followed in Canada. And yet we are told that Government ownership or control of transportation is always costly to the people, always wasteful, and always inefficient.

The CHAIRMAN. Whose statement is that? Is that the statement of this report, in the Canadian report?

Mr. BROOKHART. They claim to be quoting Mr. Ackworth in that statement, where I paused to remark.

The CHAIRMAN. Was Mr. Ackworth one of the Canadian commissioners?

Mr. BROOKHART. He was one and signed this report.

The CHAIRMAN. And you say you are quoting Mr. Ackworth?

Mr. BROOKHART. It is quoting him in writings or statements he had given them, not in the report itself.

Senator CUMMINS. The report he is reading, though, is a report of the board of agriculture.

Mr. BROOKHART (continuing to read).

#### INTERCOLONIAL NOT A FAILURE.

Turning directly to the railway situation in Canada, we find that one of the chief, if not the most telling, arguments of the opponents of Government ownership to be the alleged failure of the Intercolonial as a public enterprise. It is steeped in corruption, inefficiently managed, and debauched by politics, looted of its necessary revenue for the benefit of the people of the Maritime Provinces—if its ill-wishers and detractors are to be believed. And yet Mr. J. L. Payne, of the department of railways and ca-

nals, and one time an employee of this road, tells us in a recent article in the *Railway Age*, Chicago, that he knows by experience that the road is less subject to political interference than is frequently charged; that the usual charges that it is used for corrupt purposes, at election times, are practically without foundation; and that, all statements to the contrary notwithstanding, it is efficiently managed and operated. True, very low rates both for freight and passenger service have been charged the people of the eastern Provinces; but that policy is part of the inherent understanding arrived at between the several Provinces at the time of Confederation. This policy was inaugurated partly as an offset against that obtaining in upper Canada, where no attempt has been made to charge the people anything approximating to even the interest on the huge sum of \$100,000,000—the cost of the canals there. In fact, the Government operates the canals to-day practically free of charge, and yet their cost is borne by the whole of Canada. For that, and other reasons as well, the people of the Maritime Provinces consider that they are entitled to low traffic rates.

Mr. Payne deals with this problem in an illuminating manner in reply to an attack made by Mr. S. O. Dunn, editor of the *Railway Age Gazette*, on the finances of the Intercolonial. Mr. Dunn demonstrated that the Intercolonial has never earned interest upon its capital cost and sometimes not even operating expenses, and contrasted the Intercolonial earnings with those of the Canadian Pacific. Mr. Payne replies to the effect that if the Canadian Pacific had charged the same low rates as the Intercolonial, it would long since have passed into the hands of a receiver. He makes an exhaustive analysis, further, of the passenger and freight receipts of the two roads for the year 1913, the last normal year before the outbreak of war, and finds that the passenger-mile rate of the Canadian Pacific was 22.6 per cent and the ton-mile 37.5 per cent higher than the corresponding rates of the Intercolonial. If these rates had been transposed and the Intercolonial had had the advantage, the Canadian Pacific would have earned \$24,051,716 less, and the Intercolonial \$3,010,784 more during 1913. That low rates have been the cause of the Intercolonial's difficulties is made abundantly clear by the fact that, with slight increase in rates only, the railway earned a surplus of \$2,000,000 in the fiscal year 1915-16 and about \$1,500,000 for 1916-17. And finally it may be said that the revenue test is a poor one to decide the question of the validity and justice of Government ownership, in view of the fact that a considerable percentage of the privately owned roads of the United States are in the hands of the receiver.

#### CORRUPTION AND PRIVATE OWNERSHIP.

As for corruption and political interference, the public life of Canada has been debauched by privately owned railroads. Surely the memory of the people is not so short that they can not recall the interference of Canadian railroads in the reciprocity campaign of 1911. It was mainly through their influence that the measure was defeated. Their lobbying at Ottawa, both past and present, smells to heaven. Their periodic raids on the public treasury constitute a standing menace to the well being of the nation. In land grants, in cash subsidies, and in guarantees they have received more than half the entire cost of all the railroads in this country, and yet their insatiable appetite is not appeased. It ill behoves them, therefore, to speak lightly of graft, corruption, inefficiency, and political interference.

In view of the fact that the Canadian Northern and the Grand Trunk Pacific are in financial difficulties, and in view of the further fact that they will require substantial aid from the Dominion treasury to prevent their going into liquidation, the problem of nationalizing not only these roads, but the entire railway system of Canada, becomes of immediate and pressing importance. Mr. E. B. Bigger, whose illuminating articles on the Canadian railway situation have been already referred to, has set forth succinctly the relation of the railways to the State somewhat as follows:

"1. The railways of a country are its main highways and therefore should not pass out of the control of the people.

"2. There is no source of revenue for a railway other than the rates imposed for carrying persons and goods.

"3. This revenue is raised, not from any hidden fountain of wealth within the railway itself, but from the proceeds derived from the economic activities of the entire people.

"4. By the division of labor in the modern State everyone who earns and spends money contributes to the cost of railway service, and this cost enters into practically every article used by the people.

"5. The maintenance of a nation's means of communication is a function of sovereignty, which should not be permitted to be exercised by private individuals for their own benefit.

"6. Since all the people contribute to the cost of railway service railway rates become essentially a national tax. And in all highly developed countries, railway



rates make up the largest element in taxation. It is of fundamental importance that the people should retain control of the machinery through which they are subject to taxation."

Recurrent deficits in the operation of the Canadian Northern and the Grand Trunk Pacific have brought about an intolerable condition of affairs, inasmuch as the people at large are taxed to make these good. It is freely admitted that it is impossible to permit these roads to go into the hands of the receiver, because of the staggering blow that would be dealt thereby to Canadian credit. On the other hand, if the nation must make these deficits good, it should in justice have control of the roads. This has been recognized in a left-handed manner by the Canadian Northern which has made the Canadian Government a junior partner in the enterprise, by handing over to it 40 per cent of the outstanding common stock. Nevertheless, Mackenzie and Mann took good care that the control of the road should not slip through their hands. The Government has the satisfaction of making deficits good, in return for the right to play a minor rôle in the enterprise. On the other hand, the situation is almost as equally unsatisfactory in the case of the Canadian Pacific, the most powerful as well as the most successful railroad in the world. Canadians are supposed to jubilate when the huge annual earnings are made known, and surplus earnings are carried over to reserve. The fact is, that few persons sufficiently realize that excess earnings are merely a supertax wrung from the necessities of the nation. There is no more reason why a railroad should build up a surplus over cost of capital, depreciation, upkeep, repairs, and betterments than that the Government by excessive taxes, should accumulate a fund of capital to make a conspicuous display of the country's wealth and prosperity. It should never be lost sight of that railway rates are in reality taxes—taxes paid for particular services rendered, but taxes nevertheless.

#### WHAT THE PEOPLE HAVE PAID.

It is said, of course, by opponents of Government ownership, that the railways of the United States and Canada have the lowest freight rates in the world, although it is admitted that passenger rates especially in this country, are high as compared with those obtaining in Europe. But while the ton-mile rate is low compared with ton-mile rates on railroads in Europe, Australia, and New Zealand, it must not be forgotten that the length of haul on this continent is very great, and hence traffic rates high. It does not need detailed discussion to demonstrate that freight rates weigh heavily upon the Canadian West especially, and that they are an important factor in the high cost of production in agriculture and in other pursuits. When it is realized, also, to what extent the Canadian people have assisted privately owned railroads, the wonder is, not that the ton-mile comparison is relatively favorable, but that the people of Canada are compelled to carry in sum total a crushing burden of freight and passenger rates. The following table shows the aid given Canadian railways by means of cash subsidies, land grants, and guarantees:

	Subsidies.	Proceeds of land sold.	Loans outstanding or investment.	Guaranties outstanding.	Total.
Canadian Northern.....	\$38,874,148	\$34,479,809	\$25,858,166	\$199,141,140	\$298,253,263
Canadian Pacific.....	104,890,801	123,810,124			228,500,295
Grand Trunk Railway.....	13,003,060		15,142,623		28,145,693
Grand Trunk Pacific.....	726,320		70,311,716	43,432,848	114,470,884
Grand Trunk Pacific branch lines.....				13,469,004	13,469,004
National Transcontinental.....			159,881,197		159,881,197
Intercolonial.....			116,234,204		116,234,204
Prince Edward Island.....			9,496,567		9,496,567
Total.....	157,294,329	158,189,933	396,924,483	256,042,992	968,451,727

This enormous total amounts to more than one-half of the book value of all Canadian roads and their equipment, although in the book value are included many millions of dollars for stock from which nothing was received by the roads. In addition to the sums mentioned in the table above, it must not be forgotten that both the Canadian Northern and the Canadian Pacific have still millions of acres of land unsold, representing millions of dollars according to their own calculation. If the Canadian people, therefore, are required to furnish additional capital and to assume further bond obligations, they would be well advised to assume the ownership of the railways themselves.

Here follows a review of the report of Sir Henry Drayton and Mr. Ackworth, but as the report is in the record in full the review is therefore omitted.

Under this plan (Drayton-Ackworth) all the Canadian railways comprised in the scheme would be subject to the supervision of the Dominion railway board, just as the Canadian Pacific is, and will be. In addition, it is expected that the roads will be operated, under the company, free from political control. In fact, the commissioners make much of this point, and frankly state that while democratic government is good to meet the general needs of the people, it is untrustworthy as far as railway management, ownership, and control are concerned.

With all this the Canadian Council of Agriculture entirely and emphatically disagrees. It believes in government of the people, for the people, and by the people. It proclaims its wholehearted faith in democratic principles. It is convinced that the people through their government not only should own the railroads, but control and operate them through its own service. Germany, Australia, New Zealand, and South Africa have shown that it can be done, and what these states have accomplished the council is persuaded the people of Canada can do also.

Here is the conclusion of this board, and this happened since Mr. Ackworth made his report:

The council believes that the general scheme for taking over the Grand Trunk system and the Canadian Northern is essentially just and equitable. But it believes also that the plan does not go far enough. The council is convinced that to insure efficiency and success, financial and otherwise, the Canadian Pacific must also be owned by the people.

MR. SIMS. In that paper you have read there has been nothing of your own?

MR. BROOKHART. It has been either Mr. Ackworth or the Canadian Council.

MR. SIMS. These arguments are not yours?

MR. BROOKHART. I am quoting them.

MR. SIMS. I suppose you do not materially disagree with them?

MR. BROOKHART. I do not; I quite fully agree with them. Most of the time I have agreed very well with Mr. Ackworth, but not with his final conclusion before this committee.

#### ENGLAND.

England is the mother of the steam engine and built the first railroads. Her policy has always been private ownership with government regulation. In the beginning the companies owned the track and the shippers owned the locomotive and the cars. This system was in use in 1839, 16 years after the first steam road was chartered. Competition was the central idea and, indeed, has always been the central idea, in the construction and regulation of the English railways. However, in 1844 Gladstone recognized that "competition between railway companies is likely to do more injury to them than good to the public." He then secured the passage of the cheap trains act which fixed certain maximum fares and rates, gave certain powers to the board of trade and provided for the compulsory acquisition of the railways by the state after 21 years, in the discretion of Parliament upon payment of "25 times the annual divisible profit estimated on the average of the three next preceding years." While Parliament has continued its policy of regulation it has always preserved this right of purchase. With this history and with the enormous British traffic both foreign and domestic we should expect to find the best results of private ownership. Let us see the facts.

First. Have the English people enjoyed low rates? No. Their average passenger fare is now 1.75 cents per mile against \$.88 of 1 cent in Germany or nearly double. Their average freight rate is 2.33 cents per ton mile against 1.248, again almost double. However the average haul in England is estimated at about 30 miles against 68 in Germany. When this and all the other facts are considered the English freight rate probably does not exceed the German by more than 10 to 25 per cent. The Englishman finds his consolation by comparison with the United States where private ownership also prevails. Mr. Ackworth who testified before this committee said in his book "The Railways and The Traders," "The English rates are the highest in Europe, but are not so high on local traffic as the rates in the United States."

The English rates are the highest in Europe. Now I beg you to bear in mind his first statement.

Mr. SIMS. What was the date of that book in which Mr. Ackworth made these utterances? Have you got it there?

Mr. BROOKHART. I believe not.

Mr. SIMS. Could you ascertain it and supplement your hearing?

Mr. BROOKHART. I think I can.

Mr. SIMS. I should like to know whether it was before or after Italy took over the roads.

Mr. BROOKHART. I would not be certain about that, because that has not been very long.

He made the following comparison in detail:

The tariff for drapery and other goods of the same class out of Chicago for a distance of 50 miles works out as equal to 28s. 6d. per ton. From Manchester to Lancaster the distance is 51 miles, and the rate of 20s. includes collection and delivery.

They send out and collect and deliver over there like express companies do in this country, and yet for the same service, for the same short haul, mind you, the English rates are that much lower than ours.

I have said to you that we have the highest freight rates for the services performed in the world and I believe that is true, and I am ready to meet anybody on the facts, and the railroads have not brought any scientific contradiction of that to these records, and I do not think there is such a contradiction in existence. Now I am quoting Mr. Ackworth in corroboration of that. After stating these English rates, which are the highest in Europe, he then finds they are this much lower than in the United States:

If we compare similar distances out of London and out of New York, we shall find some remarkable contrasts. Take Bedford, for instance, on the Harlem branch of the New York Central, 40 miles out, and Leighton, which is distance 39½ miles from the Euston station (London). Carrots are 11s. in the former case, as against 7s. in the latter.

Mr. SIMS. That is per hundredweight, is it not?

Mr. ESCH. No, I think it must be per ton.

Mr. SIMS. I meant to say per ton.

Mr. BROOKHART. Hay and straw in America 18s. 5d.; in England 6s. 8d., 10s. 10d., and 12s. 6d., according to quantity and method of packing. For butter the Americans pay, according to method of packing, from 16s. 7d. to 36s. 10d. The highest English rate is 26s. 8d., while the lowest is 10s. less, and in every instance the English company takes the risk and does the carting at both ends in addition.

Mr. ESCH. Who pays the icing charge?



Mr. BROOKHART. Let me see if there is anything on that. However, Mr. Ackworth is giving this now as a comparison of the rates in the two countries, and I think he has included all of the elements that go to make the rate in this country and in that country. It would not be fair if he had not done so.

Mr. ESCH. Certainly not, because icing is a very material part.

Mr. SIMS. In a 40-mile haul?

Mr. ESCH. Yes; because in this country your car may be on a siding a day or more. It is not safe.

Mr. SIMS. In that country they have got to deliver it, too.

Mr. BROOKHART. But on hay and straw there would be no such charge. That would apply only to butter. Here is a long list of others:

We have heard a good deal in England about the extortionate rates which are killing the fruit trade. The American rates appear to be higher in almost every case. Here is one comparison: Kirkwood to Jersey City, 141 miles; peaches in less than carloads, owners' risk, 55s. 2d.; company's risk, 82s. 10d. In England, raspberries and strawberries, from Wisbeck to Manchester, 142 miles, owners' risk, 40s.; company's risk, 47s. 6d. Stanbridgeford to Manchester, 147 miles, plums and gooseberries, at company's risk, 29s. 2d. The American rates are quoted as by special fast train, the English by goods train; but of course the English service delivers first thing next morning, and the American fast train can not do more. An ordinary American goods train would be liable to take a couple of days. The American rates exclude both loading and unloading. The English include not only these services but collection and delivery as well.

Mr. SIMS. Is that furnished by Mr. Ackworth?

Mr. BROOKHART. This is Mr. Ackworth's own work.

Mr. Ackworth also found our local coal rates 15 to 20 per cent higher than the English local rates, and our milk rates 40 to 50 per cent higher. With a 2½-cent passenger rate in the United States it is evident that private ownership is not giving the public low rates in the two greatest countries in the world.

Second. Does it give better service? Here is the description of an eyewitness:

The track is good and the provisions for safety, so far as concerns grade crossings, the block system, etc., are excellent. But the secretary of the Board of Trade told me there was no automatic coupler in England, which railway managers explain by saying that their cars were built for side strain and could not stand the center shock. So it was a question of rebuilding their rolling stock. The toy freight cars half or quarter loaded, the motley freight trains made up of all sorts of cars, many of them marked with the names of private owners, remnants of the early system of having shippers own their own cars; the stations plastered all over with a mob of flaring red, green, yellow, blue, and white advertisements; the bituminous smoke let to run wild, and the piercing shrieks of the shrill engines whose musical and artistic education has been wholly neglected, and who are very unhappy in the service, judging by the tone of their remarks, a condition in which I heartily sympathize with them; the compartment cars with half the seats back to the engine, most of the passengers far removed from the windows, no opportunity for ventilation except by direct draft from the window with a splendid chance of catching cold; no means of warming the cars except by long tubes of hot water on the floor, called foot warmers, and many times not even this; no chance to get up and walk about, not even a drink of water to be had in a five or six hour ride; and guards that carefully refrain from announcing the stations, so that passengers must often rely on intuition to know where they are, or else call out of the car, or get out to inquire (the only way to open the door in order to do either of these things being to let down the window and reach way down and out to the handle, a procedure which in cold weather is anything but comfortable for the passenger in question, or for his fellow prisoner in the same cell, called by courtesy a compartment)—such is the picture of railway travel in the ordinary English trains. At the close of my journeyings, after weeks of experience on English railroads, I wrote in my notebook: "After suffering the railway accommodations of England I hardly think the continental roads even in Italy can have any terrors for me."—(Prof. Frank Parsons.)

Third. Has regulation prevented the evils of monopoly and secured fair treatment for the public?

The English have 3,300 legislative enactments regulating the railroads and they cost \$400,000,000.

Mr. ESCH. That is an enormous cost — \$400,000,000.

Mr. BROOKHART. It cost something to get legislation.

Mr. ESCH. You understand the English do not have the power of condemnation, therefore they have to put a lot of political pressure on Parliament to get anything.

Mr. SIMS. You do not mean the whole railroad system of England?

Mr. BROOKHART. That was the expense of getting these 3,300 legislative enactments through Parliament.

The CHAIRMAN. Do you say that amount appeared in the railway accounts?

Mr. BROOKHART. It appeared in this parliamentary investigation.

The CHAIRMAN. But do they say the railways expended \$400,000,000?

Mr. BROOKHART. No; the corporations who got the acts through.

In 1872 one of the ablest committees that ever sat in England reviewed all of these regulations and reported that English railroad legislation had never accomplished anything it sought to bring about, nor prevented anything it had sought to hinder. In 1888 another law revising the rates downward was enacted. After an inquiry of 130 days the result was one and one-half rates increased for every one that was reduced. They tried another law in 1894 and it proved ineffective. Complaints of extortion and discrimination still pour in on the board of trade, which only has conciliatory powers, and upon the commission, which has power of injunction, fine, and imprisonment. From 1888 to 1905, 3,200 complaints were made to the board of trade and ten times that many to the traders' association, and shippers as a rule are afraid to fight the railway. Upon that subject President Hadley in his conclusions against railway ownership is quite fair in his discussion of these questions. Here is what he says:

The number of complaints by no means indicates the number of men who have grievances. Men have good reason to think twice before they enter a complaint. A complainant is likely to lose more money than he gains. Every important case is so persistently appealed that the original promptness or cheapness of railway commission practice counts for nothing, and the indirect results are worse yet. A complainant is a marked man, and the commission can not protect him against the vengeance of the railroads. A town fares no better. It complains of high terminal charges and the company retorts by raising the local tariff for that place 100 per cent. A coal mine complains of freight rates and the railroad refuses to carry for it on any terms. Even the War Department is afraid. It has its grievances, but it dare not make them public for fear of reprisals. (Railroad Transportation, 175-176.)

Mr. ESCH. That was written over 25 years ago.

Mr. BROOKHART. Mr. Ackworth says, and this was written quite a while since:

For every shilling cut by an expeditious tribunal off a rate it is easy for the railway companies to withdraw two shillings worth of facilities. For a merchant or farmer to undertake to fight trained railway experts with a lifetime's experience and with every fact and figure at their fingers' ends, is only to court defeat.

Mr. ESCH. That was written 10 years ago.

Mr. BROOKHART. Something like that.

Mr. ESCH. But since that time has not England passed a law whereby the burden of litigation is put upon the Government, the

commission, somewhat similar to our Interstate Commerce Commission act, where the load is put on the Government?

Mr. BROOKHART. I think that is true.

Mr. ESCH. They have relieved that situation very largely.

Mr. BROOKHART. And that has done a great deal of good, as it has here. But these conditions have continued largely up to the present time, just as our rate fights are continuing here.

Mr. SIMS. Then it has not changed or modified human nature, I suppose?

Mr. BROOKHART. No, sir; not in the least.

The report of the commission for 1903 contains 270 cases, 95 of which charge discrimination and many of the others excessive rates. The board of trade report for 1902 shows 325 complaints in three years, nearly all of discrimination.

Fourth. Has private ownership in England produced an honest capitalization and an honest financial management?

The roads are capitalized at an average of \$275,000 per mile, almost two and one-half times as much as the German. There is no warrant for such a figure. They are watered as badly as the worst American railroads. Upon this subject Herbert Spencer said:

If, in times past, there have been ministries who spent public money to secure party ends, there are, in times present, railway boards who use the funds of the shareholders to defeat the shareholders. Like their prototype, joint-stock companies have their expensive election agents; they have their canvassing with its sundry illegitimate accompaniments; they have their occasional manufacture of fraudulent votes. And as a general result, that class legislation, which, until of late, was habitually charged against statesmen, is now habitually displayed in the proceedings of these trading associations; constituted though they are on purely representative principles.

The general public—who never see a railway journal and who skip the reports of half-yearly meetings that appear in the daily newspapers—are under the impression that dishonesties akin to those gigantic ones so notorious years ago are no longer committed. They do not forget the doings of stags and stockjobbers and runaway directors; they remember how men of straw held shares amounting to £100,000, and even £200,000; how numerous directorates were filled by the same persons—one having a seat at 23 boards; how subscription contracts were made up with signatures bought at 10s. and 4s. each, and porters and errand boys made themselves liable for £30,000 and £40,000 apiece. They can narrate how boards kept their books in cipher, made false registries, and refrained from recording their proceedings in minute books; how in one company half a million of capital was down to unreal names; how in another directors bought for account more shares than they issued, and so forced up the price; and how in many others they repurchased for the company their own shares, paying themselves with the depositors' money. But, though more or less aware of the iniquities that have been practiced, they generally think of them as the accompaniments of bubble schemes.

Mr. ESCH. You have to take into consideration that the English roads are double-tracked and most of them quadruple-tracked.

Mr. BROOKHART. And the German, too.

Mr. ESCH. So we can not make a fair comparison with the American lines, where there is only a small per cent of double track.

Mr. BROOKHART. Still this capitalization is excessive; all authorities agree that it is.

I have some further statements from Herbert Spencer here which I should like to go in the record.

Senator CUMMINS. A statement from Spencer in regard to the activities of railroad companies in politics?

Mr. BROOKHART. Yes; in reference to the fraud in building and the leasing and purchasing of subordinate lines.



Senator CUMMINS. I read that in some former time. It is a very graphic description of the way the railroads operated in politics in England.

Mr. ESCH. We can duplicate it here, I think.

Mr. BROOKHART. It would take the worst cases—well, I do not know that it would take the worst, but it would take the average case in our country to come up to the experience in England.

A history of railway management and railway intrigue, however, would quickly undeceive them. In such a history the doings of projectors and the mysteries of the share market would occupy less space than the analysis of the multiform dishonesties that have been committed since 1845, and the genesis of that elaborate system of tactics by which companies are betrayed into ruinous undertakings that benefit the few at the cost of the many. From the published report of an investigation committee it would be shown how, not many years since, the directors of one of our lines allotted among themselves 15,000 new shares, then at a premium in the market—how to pay the deposits on these shares they used the company's funds—how one of their number thus accommodated himself in meeting both deposits and calls to the extent of more than £80,000. We should also read in it of directors who made loans to themselves out of the company's floating balances at a low rate of interest when the market rate was high; and who paid themselves larger salaries than those assigned, entering the difference in an obscure corner of the ledger under the head of "petty disbursements." There would be documents showing that the proxies, enabling boards to carry contested measures have in some cases been obtained by garbled statements; and, again, that proxies given for a specific purpose have been used for other purposes. One of our companies would be proved to have projected a line, serving as a feeder, for which it obtained shareholders by offering a guaranteed dividend, which, though understood by the public to be unconditional, was really contingent upon a condition not likely to be fulfilled. The managers of another company would be convicted of having carried party measures by the aid of preference shares standing in the names of station masters, and of being aided by the proxies of the secretary's children too young to write.

The corruptions here glanced at are not mere exceptional evils, but result from some deep-seated vice ramifying throughout our system of railway government.

In reference to fraud in building, leasing, or purchasing subordinate lines, Spencer also said:

After a few recurrences of this proceeding it was clearly perceived by quick-witted speculators that the making of lines so circumstanced as to be bid for by competing companies would be a lucrative policy. Shareholders who had once pocketed these large and easily-made gains were eager to repeat the process and cast about for districts in which it might be done. Even the directors of the companies by whom these high prices were given under the temptation to aid in this—for it was manifest to them that by obtaining a larger interest in any such new undertaking than they possessed in the purchasing company, and by using their influence in the purchasing company to obtain a good price or guaranty for the new undertaking a great advantage would be gained, and that this motive has been largely operative—railway history abundantly proves. Once commenced, sundry other influences conspired to stimulate this making of feeders and extensions. The nonclosure of capital accounts rendered possible the "cooking" of dividends, which was at one period carried to a great extent. Under various incentives, speculative and other, expenditure that should have been charged against revenue was charged against capital; works and rolling stock were allowed to go unrepaired, or sufficient additions made to them, by which means the current expenses were rendered delusively small; long credit agreements with contractors permitted sundry disbursements that had been virtually made to be kept out of the accounts; and thus the net returns were made to appear much greater than they really were. Naturally the new undertakings put before the moneyed world by companies whose stock and dividends had been thus artificially raised were received with proportionate favor.

Under the prestige of their parentage their shares came out at high premiums, bringing large profits to the projectors. The hint was soon taken, and it presently became an established policy, under the auspices of a prosperity, either real or mock, to get up these subsidiary lines—"calves," as they were called in the slang of the initiated—and to traffic in the premiums their shares commanded, meanwhile had been developing a secondary set of influences which also contributed to foster unwise

enterprises, namely, the business interests of the lawyers, engineers, contractors, and other directly or indirectly employed in railway construction. Thus, partly from the jealousy of rival boards, partly from the avarice of shareholders in purchased lines, partly from the dishonest schemings of directors, partly from the maneuvers of those whose business it is to carry out the projects legally authorized, partly, and perhaps mainly, from the delusive appearance of prosperity maintained by many established companies, there came the wild speculations of 1844 and 1845.

Fifth. Does private ownership keep out of politics in England?

In 1845 an official report showed 157 members of Parliament whose names were on the registers of new companies for sums varying from \$1,400,000 downward.

Mr. SIMS. What do you mean?

Mr. BROOKHART. Gifts; something like star-route trials.

Mr. SIMS. Contributions?

Mr. BROOKHART. Yes; you have got the same story wherever private ownership has existed in the world; you have the same history that we had to go through in this country.

Of this subject Herbert Spencer said:

There are 81 directors sitting in Parliament; and though some of these take little or no part in the affairs of their respective railways, many of them are the most active members of the boards to which they belong. We have but to look back a few years and mark the unanimity with which companies adopted the policy of getting themselves represented in the legislature to see that the furtherance of their respective interests was the incentive. How well this policy is understood amongst the initiated may be judged from the fact that gentlemen are now in some cases elected on boards simply because they are members of Parliament. Of course, this implies that railway legislation is affected by a complicated play of private influences.

This condition has continued down to date. Private ownership never did stay out of politics. Perhaps that accounts for the strong public sentiment for Government ownership in England. In reference to the sentiment in the United States, President Hadley said in *Railway and Transportation*, page 258:

There is a strong popular feeling, to a large extent unsuspected by those in authority, in favor of Government ownership of railways as a system. No one can have much to do with the more thoughtful laboring man without finding out how strong the feeling is and what hopes are based upon it. The fact that the question is not now under discussion must not blind us to the fact that forces are at work which may prove all but revolutionary when the question does come under discussion.

Quoting and commenting on these words, Carl S. Vrooman said:

That a similar state of affairs exists in Great Britain—the only other first-class power which still holds firmly to the policy of private ownership and management of transportation facilities—is borne out by a statement which was made to the late Frank W. Parsons not long ago by Mr. W. M. Ackworth, the most conservative railroad authority in England, to the effect that nine out of every ten people in Great Britain would vote for public ownership if the question were submitted to a vote to-morrow.

Mr. E. B. Biggar, a noted Canadian author and economist, has published a book on government ownership of railways since Mr. Ackworth appeared before this committee, and the following quotation is from pages 244 and 245.

Mr. SIMS. Is that Mr. Ackworth's idea of what would take place in England?

Mr. BROOKHART. That was Mr. Vrooman I was quoting.

The CHAIRMAN. You referred at some point there to a statement that Mr. Gladstone, I think, proposed to take over the railroads in England at a cost of twenty-five times the net revenue of the roads in the preceding year?

Mr. BROOKHART. The average of one year figured on the average of the three preceding years.

The CHAIRMAN. I was just thinking what the rule would produce here as the cost of the road; the net revenues of the roads were \$1,056,000,000; the year before it was something like \$750,000,000, and the year before that something like \$800,000,000, I think. Now, that would make an average, roughly speaking, of \$900,000,000. Twenty-five times \$900,000,000 would be \$22,500,000,000.

Mr. BROOKHART. I think you have substantially stated the case if they were purchased on that rule. But I would say that rule would be a very unjust rule to enforce in the United States.

The CHAIRMAN. Have you anything to say regarding the rule?

Mr. SIMS. It was twenty instead of twenty-five, was it not?

Mr. BROOKHART. Twenty-five is my recollection. But that was many years ago; in 1844 I think that rule was established.

The CHAIRMAN. What is the capitalization of the roads to-day?

Mr. BROOKHART. In my original statement I have set out the net capitalization, and assumed the value to be the net capitalization. I do not think it is equal to the net capitalization. I think a very fair way to determine it would be to take the average of the stock and bond values for a series of years and find out what it would be.

Mr. SIMS. The market values, do you mean?

Mr. BROOKHART. The market values, yes; for a series of years. My own judgment is that they would not be worth, on what their own markets have made them worth during those years, \$15,000,000,000. They would be less than that. I figured it out for the year 1913 at one time, and it was something over \$13,000,000,000 and that was on a partial estimate of stocks. I took the better roads, so I know the total value would be less; I took thirty-eight roads, as I recollect, the better roads, and got the stock and bond values on those and figured out, using that percentage on the whole of the railroads in the United States, and it was something over \$13,000,000,000 which it figures out to be worth at that time. Now, then, if you were going to purchase them you ought not figure it on an estimate, but take the quotations on all the roads, and when you have done that I am quite sure that at this time it would not exceed \$15,000,000,000 of actual value.

Mr. SIMS. Mr. Lovett did not estimate it at over \$16,000,000,000 is my recollection.

Mr. BROOKHART. That is true. You see it generally stated in the newspapers that it is \$20,000,000,000, and that is obtained by this duplicate capitalization which I have criticized so strongly here, and it is unjust as a basis.

The CHAIRMAN. You mean to say than on capitalization that embraces intercorporate holdings of stock?

Mr. BROOKHART. Yes.

Mr. SIMS. You mean the gross valuation?

Senator CUMMINS. The par valuation of all the railroads in the country, including stocks and bonds, but eliminating the duplications, is now under \$17,000,000,000?

Mr. BROOKHART. Yes; the net capitalization is under that. Now, since Mr. Ackworth was here, Mr. E. B. Biggar, a noted economist and publisher, made the following statement before this committee:

Mr. Ackworth himself, in his book *The Railways and the Traders*, summed up the world movement in railways in these words: "From China to Peru the nations of the world have, after somewhat more than half a century's experience, finally decided either



that their Governments shall own and work their railways, or at least that, in return for a generous measure of state support, their railways shall accept an equally ample measure of state control." In a later work he wrote: "The conclusion, therefore, that I most reluctantly arrive at, is that we (Great Britain) can not go on as we are; that there is little hope for the establishment of an adequately and clearly thought out system of state control, and that, therefore, the only alternative—state ownership—is inevitable. I can see on the political horizon no force to stop it."

Senator CUMMINS. How long ago was that written?

Mr. BROOKHART. That was not written more than two or three years ago.

A little statement of the results of municipal ownership of street railways in England might disclose the reason why public sentiment is so overwhelmingly in favor of Government ownership of the railroads. One hundred and thirty-six cities own street railways in England, and the average fare charged is 2.1 cents. Private companies operate street railways in 138 cities and the average fare is 2.48 cents, or over 18 per cent higher. In the cities of Glasgow, Manchester, Liverpool, and London, which are typical of all England, the employees on the municipal lines work an average of 57 hours per week and draw an average pay of \$7.84. On the private lines of London, Dublin, Norwich, and Bristol, which are also typical, they work 70 hours per week for an average pay of \$7.20.

The CHAIRMAN. \$7.20 a week?

Mr. BROOKHART. Yes.

The CHAIRMAN. What on the others?

Mr. BROOKHART. \$7.84.

Under private ownership they work nearly 19 per cent more time and draw nearly 9 per cent less pay. Upon these lower rates and after paying these higher wages, in 1905, the city of Glasgow had net profits from its municipal street railways of \$1,609,987, and this result is also typical of England.

These facts are many times more valuable to this committee than any possible deductions from government operation of telephones in England.

#### SWITZERLAND.

1891, Government ownership defeated by a 2 to 1 vote.

1897, adopted by 2 to 1 vote.

In last election the only new argument was that the majority of registered shareholders were foreigners.

The three principal roads taken over in 1901, a fourth in 1903, and the last, the Gotthard, in 1909. Financing by law was kept separate from State affairs.

Government ownership a failure because—

1. The roads cost 11 per cent more than the estimates.

Answer. The estimates were made in 1897 and the purchases began in 1901 and did not end until 1909. It might, therefore, be claimed that the roads cost less rather than more than the estimates.

2. There was a serious increase of expenses due mainly to increased wages and reduced hours for the staff. Between 1906 and 1911 the number of staff increased 46 per cent and wages 92 per cent. The operating ratio went up from 65.53 per cent in 1903 to 71.03 per cent in 1918. In three years there was a deficit of \$2,500,000.

Answer. There was a greatly improved and extended service. The mileage increased 25 per cent, the passenger traffic by 100 per

cent, and the freight traffic by 67 per cent. The wage bill was also increased by 100 per cent, and this I consider an achievement of great public benefit, especially since there was no increase in rates. The freight rates were but slightly changed, and the passenger rates were actually reduced by  $13\frac{1}{2}$  per cent. In 1910 the average passenger rate was only 1.29 cents per mile. While the per ton-mile freight rate was higher than in the United States still the actual rate for the service performed was lower. The Swiss haul is only 45 miles against 250 in the United States. This would add  $4\frac{1}{2}$  terminal charges to the American rate and raise it to 2.6 cents against 3.01 in Switzerland. But when you consider the further facts that the American freight density is four times the Swiss, that the Swiss roads cost nearly twice the American per mile, and that the proportion of high-class freight is very much greater in Switzerland you must conclude that even the Swiss freight rate is lower than the American and the passenger rate only a little over one-half.

The CHAIRMAN. Do you know what the estimated cost per mile of railroads in Switzerland was?

Mr. BROOKHART. It seems to me it was \$129,000 or something like that.

The CHAIRMAN. As against \$65,000?

Mr. BROOKHART. Yes; about twice.

Mr. ESCH. Have they not electrified some of their lines, too?

Mr. BROOKHART. Yes; they have done that.

Upon these low rates Government ownership has wiped out the deficit, improved the property, and greatly improved the service. In the old days the third-class passenger cars were heated with hot-water bottles, but now they are heated with steam.

As for the increase in operating ratio, it is a mathematical illusion or mirage. On the French battle field it would be called a "camouflage." For instance, the gross returns of a business might be \$1,000, the expenses \$500, the net earnings \$500, and the operating ratio 50 per cent. The gross earnings might be increased to \$1,500, the operating expenses to \$900, the operating ratio to 60 per cent, and still the net earnings would be increased to \$600, an increase of 20 per cent. Therefore an increase in the operating ratio of expenses does not mean disaster. It may mean the opposite, and usually does mean greater earnings.

3. The authors of the purchase claimed the profits would extinguish the railway debt in 60 years. In fact, the debt has been increased from \$205,493,880 to \$270,132,800 in 15 years.

Answer. The mileage has increased over 25 per cent, which alone almost accounts for the increased debt. In addition the lines have nearly all been changed from single to double track. Ballast has been added and the equipment greatly improved. On the Jura Simplon 20,000,000 francs were spent on the great tunnel. If all of these additions, betterments, changes, and improvements had been made by an enterprising American capitalist, he would have easily doubled the capitalization instead of adding only 32 per cent the cost to the Swiss Government.

A democratic government in Switzerland has managed its railroads with as great success as an autocracy in Germany.

## ITALY.

There is no decisive argument either for or against Government ownership in the history of the Italian railways. Italy has tried more different plans of operation than any other country, and all have been a failure. Edward Dudley Kenna says: "In Italy railroads are still abominable, but they are infinitely better than they were before the State took them over." The State is operating them at a loss, but they were operated at a greater loss to the State under private ownership. It must also be noted that the rates of the Italian roads for both passengers and freight are much lower than American rates. In 1906 the average passenger and freight rate was only 1.25 cents per mile, and in 1908 the average freight rate was 1.56 cents per ton per mile. In 1906 the average length of haul was 70 miles, and, considering the character and density of traffic, the American rate is much higher. If Italy would raise her rates up to the American level, her railroads would probably make a good profit, in spite of the fact that her natural resources are much less. Her low rates are disregarded by the opponents of Government ownership.

In 1906 average haul (Johnson, 303), miles 70.

The CHAIRMAN. Do you know what the average cost per mile of the Italian roads is?

Mr. BROOKHART. I have that in my record, but I would have to look it up.

## AUSTRIA.

Average passenger fare, 1906, 0.89 cents.

Average per ton-mile, freight, 1.425 cents.

Average haul, 80 miles.

The zone system is used for both freight and passenger.

Johnson, 299, 302-303.

Mr. SIMS. Is that Government ownership?

Mr. BROOKHART. That is Government ownership generally, about as completely as in Germany.

The CHAIRMAN. What is the cost per mile there?

Mr. BROOKHART. That would be, I think, a little higher than the German, \$130,000 and something; Germany, \$114,000, when I reckoned it up last.

## RUSSIA.

Average passenger fare, 1905, 0.75 cents.

Average per ton-mile, 1 cent.

Mileage, 35,569.

The CHAIRMAN. Do you average the cost per mile there?

Mr. BROOKHART. No; I do not.

The CHAIRMAN. Could you ascertain it and put it in the record?

Mr. BROOKHART. I think I have the statement of the average cost per mile in most of these countries, and I think I can furnish that to the committee.

## HOLLAND.

The railroads are for the most part owned by the State but all operated by private companies. They have strong competition from canals and rivers, and most of the heavy low-rate tonnage goes by water. It is, therefore, evident that the rates are much lower for the



same service than in the United States. In 1909 the average passenger rate was 1.48 cents and the average ton-mile 1.42 cents.

The first railways were built by private companies from 1840 to 1856. The State began to build in 1860. The minister says: "Private enterprise having originally chosen for construction the most productive lines, which are only few in the Netherlands in consequence of the many good waterways, the State has been obliged to build the other lines in order to complete the railway net." The Government roads were leased to private companies, but control is strong and the result is little short of Government operation. The railroads are kept out of politics and the regulations, even including time tables, are made by the Government after consultations with the commercial and other interests.

#### FRANCE.

The railway business in France is conducted by a partnership between the State and private companies. The State furnished the right of way and the roadbed and the companies built the track and furnished the equipment and the branch lines after 1852 until they went into bankruptcy. The part furnished by the State was more than half the cost of the roads. The State guaranteed the interest on the funded debt and also guaranteed the stock dividends and reserved part of the dividends to itself above certain rates.

I might say they guarantee the interest on the funds indirectly, having guaranteed the interest on the stock, in order to receive any certificates, it is necessary to pay the interest on the funded debt, so they have indirectly guaranteed the whole thing.

This gave the French railways the benefit of Government credit and the resultant economy upon that item. The contracts also provide that the roads shall become the property of the State upon payment for the equipment in 1950 and 1958. Hence the unearned increment in real estate values is all saved to the State, and never capitalized. There is no competition in France. Each company has a complete monopoly in its territory. Hence the waste of competition as we find it in the United States is avoided. The evils of the monopoly are also avoided by strict Government regulations in finance, in operation, and in commercial relations with the public. The Government prevents watered stocks, discrimination, and excessive rates. The dividends guaranteed are very large but the proportion of stock to the whole capitalization is very small, only about 10 per cent.

This margin of safety we heard so much about is reduced away down in France.

The CHAIRMAN. What is the guarantee of dividends there?

Mr. BROOKHART. I will come to that before I finish, Mr. Chairman.

There is no debate about the margin of safety between stocks and bonds in France. The Government is behind both, and since the war has taken over the roads.

From this statement it is plain that most of the benefits of Government ownership are attained under the French system. The Government is in fact the principal owner of the properties, and it exercises a complete control and supervision of the private operation. The opponents of Government ownership will cite the good points of French railways and give the credit to private ownership. They will cite the

bad points and charge the blame to Government supervision. In both they are usually wrong, and designedly so. A striking illustration of this unfairness is found in the accounts of the operation of the Western by the advocates of private ownership. On January 1, 1909, the French Government took over the Western and has since operated it as a Government road. Here is the lurid story of the opponents:

Beginning five years before the transfer, in ten years the revenues increased 31 per cent and the operating expenses 100 per cent and the operating ratio from 56.4 to 85.2. During the last ten years of company management the treasury had to pay an average of \$2,894,280, but the first four years of Government ownership it arose from \$6,753,320 to \$14,752,237. The service was absolutely demoralized. The payment for accidents increased from an average of \$500,000 to \$2,045,291 in 1911. The number of employees was greatly increased, and out of the over \$10,500,000 increase in expenditures from 1908 to 1911 nearly \$8,500,000 was for wages and salaries.

A little analysis of their figures shows that 37 per cent of the increase in expenditures occurred under private management and likewise 11.4 of the operating ratio, and these big increases occurred during the last year or two. It must also be noted that the figures given for the cost to the treasury during private management is a 10-year average. The last year or two it was very much higher, and it is necessary to use a 10-year average in order to cut this down. The fact is that in 1908, the last year the Western was under private management, the burden upon the French treasury for all its railroads was \$52,000,000. Upon the question of accidents the methods of argument is reversed. Averages are no longer valuable, so the particular year of 1911 is chosen. That is an exceptional year and it is wholly unfair to use it in comparison with preceding averages. Upon the question of increased wages, some of us are not yet convinced that such a result is a public calamity. A large part of this big increase in wages was for delayed maintenance, which fact is carefully kept from view. It will be admitted that the salaried-office class was unduly enlarged the first year of Government operation, but that has since been remedied, which fact is also carefully omitted.

The real truth as to the Western is quite simple. It was a failure under private management financially and every other way. The private company threw up its hands and during the last years neither tried to operate or maintain the road. For a time this policy produced greater net revenues, but the reaction was inevitable. The Government was forced to take over the road and also forced to pay a large amount to restore it to even a poor working condition. The amount of delayed maintenance was enormous and the equipment was practically useless. This accounts for the increased expenses. The road is better than it ever was under private management. Mr. Edward Dudley Kenna says of this railroad:

The Western was the poorest railway in France, and it is still far from the best. But it is now better than it was under private ownership. Of course large expenditures have been required and more will be required before it can be brought to a state of complete efficiency. The recent history of national railroad operations in France proves nothing. That it has been cited by others as an argument against State ownership indicates either a lack of good faith or little acquaintance with the facts.

The CHAIRMAN. Who says that?

Mr. BROOKHART. Mr. Edward Dudley Kenna, former vice president of the Santa Fe Railroad in this country, who has written very fairly on this question of Government ownership.

The CHAIRMAN. Is Mr. Kenna still in the railroad service?

Mr. BROOKHART. No, sir; he retired some years ago; not very many years ago, however. He lives in Chicago now.

The French rates, both freight and passenger, are lower than the American. In 1908 the average passenger fare was 1.10 cents per mile. The ton-mile rate was 1.21 cents and the average haul 78 miles. In 1910 the fare on the State railways was from 1.03 to 1.07 and on the private railway from 1.11 to 1.25, with the density 112 per cent.

You see these roads are operating side by side the same as in Canada.

For the same service the freight rates were also lower on the State railways, but because of the difference in traffic the ton-mile rate was higher. The heavy freight from Paris to the coast went by water. The figures are as follows: State ton-mile, 1.55 to 1.60 cents; density, 293,918; average haul, 71 miles. Private ton-mile, 1.18 to 1.46; density, 819,055; average haul, 96.

The dividends guaranteed by the Government are as follows:

	Per cent.		Per cent
Northern.....	13.15	Orleans.....	11.2
Eastern.....	7.1	Paris, Lyons, Mediterranean.....	11
Western.....	7.7	Southern.....	10

Only about 10 per cent of the capitalization is stocks.

You see they have nearly three times the density of the private roads and a considerably longer haul.

#### *Railway-bond earnings.*

	Per cent.		Per cent.
1845.....	5.6	1885.....	3.8
1865.....	4.8	1908.....	4.0

#### *Cost of roads per mile.*

1884.....	\$128,000	1900.....	\$133,800
1894.....	130,000	1907.....	137,200

#### AUSTRALIA.

It is admitted that the people are solid for Government ownership, but the point is made that the ton-mile earnings for New South Wales are 2.20 cents and for South Australia 2.12 as against .75 cents in Canada and .738 cents in the United States. This statement is grossly unfair. In the first place, it is necessary to go back before 1909 to find a ton-mile rate in New South Wales of over 2 cents. In 1912 the rate was only 1.78 cents, the average haul was only 81 miles, and the freight density only one-fourth of the United States. In the same year the American rate was .744 per ton-mile and the average haul 256.87 miles. It is therefore necessary to add over 2½ terminals to the American rate and that will raise it to



1.474 per ton-mile. When we consider the other fact that the American density is four times the Australian it conclusively proves that the American rates are actually higher. With this must go the other fact that the passenger fare in New South Wales was only 1.04 cents per mile against 1.987 cents in the United States. With freight rates lower than the United States and with passenger rates only a little over half of ours in 1911, New South Wales earned a surplus of \$2,578,000 upon her 3,799 miles of line after allowing  $3\frac{1}{2}$  per cent interest on the whole cost of the roads. (Dunn, 318.)

The next unfair proposition is the comparison of New South Wales with Texas. The Texans ought to resent this forever. The claim is also made that private ownership has developed railroads and the country faster in the United States than public ownership has been able to do in Australia. In order to refute these claims, I desire to introduce some maps and charts from the National Geographic Magazine of December, 1916.

They have borrowed their money cheaper than any other country where private ownership prevails.

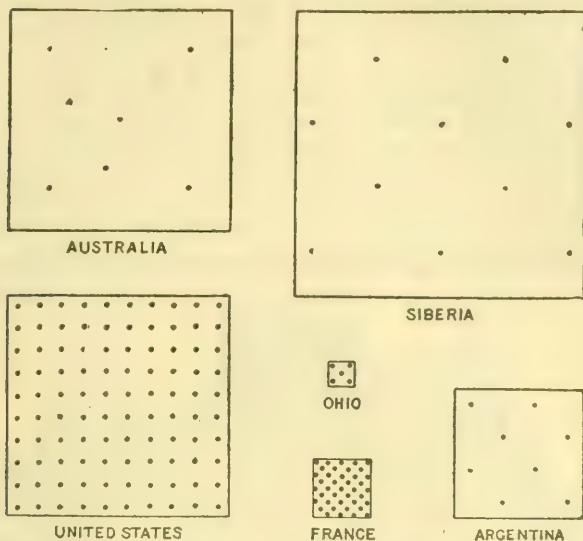
Senator Cummins put the question to me, Why had not the Government-ownership railroad lines developed in that country like the privately owned railroads in the United States? Here is the answer: Here is a map showing the rainfall of 8 inches, and you would have to take the United States and start in with the desert at Pittsburgh and spread it all over the Mississippi Valley, reduce it to 5,000 population, in order to get a comparison with Australia. As quick as you know that fact you will know that railroads, or nothing else, will ever develop in Australia like they have been developed in the United States until the Almighty changes things down there. That is impossible.

Mr. Esch. Is it not due also to provincialism—that is, each State wanted to keep its own traffic in its own borders and each would have a different standard rail, so as to keep the cars from going into another Province?

Mr. BROOKHART. That is undoubtedly a detriment to development, but, Mr. Esch, even if you had a perfect system of railroads, like Japan, we will say, and all of one gauge type, that can not develop that country anything in comparison to the United States; it is impossible because of these natural conditions.

I will offer these charts, with the statements under them, giving that description.

(The charts referred to by the witness are here reproduced as follows:)



A comparison of the density of population of Australia, the United States, Siberia, France, and Argentina.

The squares represent the relative areas of several countries and the dots the population, there being a dot for each 1,000,000 inhabitants. If small squares are formed by connecting the dots, the relative sizes of these will represent the relative amount of land per inhabitant.

More than two-thirds of the territory of Australia has less than 20 inches of rainfall a year. Washington, D. C., has 43 inches; Boston, 43; Chicago, 33; Kansas City, 37; Atlanta, 49; New Orleans, 57; Denver, 14; San Francisco, 22; and Seattle, 36. Being without high mountains, the continent has no summer snows to melt, which renders irrigation, except by artesian wells, almost impossible. Fortunately the configuration of bedrock makes artesian irrigation possible in many places, though the water so obtained is usually brackish.

Now, compare with Texas:

Texas has a population of 15 people to the square mile, while New South Wales and Victoria, the most densely populated part of Australia, have only five, and more than one-third of that in a single city. If the whole Mississippi Valley were turned into desert, with less than 5,000 population, the United States would still be a better railroad proposition than Australia. The maps and charts I introduce are found on pages 488, 512, and 513. Australia can never be developed by railroads until the plan of nature is changed.

The particular figures relied upon to prove that private ownership in Texas is better than public ownership in New South Wales are as follows: In Texas in 1915 the ton-mile rate was 0.995 cent, the average haul 135 miles, and the density 490,666. The passenger rates were 2.42 cents per mile and the average journey 53 miles. In New South Wales the ton-mile rate was 2.20 cents, the average haul 79 miles

and the density 229,250. The passenger rates were 1.15 cents and the average journey 14 miles. I must challenge the statement that the average haul in Texas is only 135 miles. The only way such a figure could be found would be to take the typical haul of the average railway and cut it off at the State line. This is unfair and entirely misrepresents the actual facts. Perhaps over 85 per cent of the Texas traffic is interstate. This comes into the State from far distant points and it goes out of the State to like points. The proportion of the rate paid in Texas is based upon the long haul and not upon the part of it within the State. The passenger journey in Texas is over 60 per cent longer than the average of the



A map to show the distribution of the population.

United States. The freight haul will likewise be longer than the average of the whole country when the actual movement is considered. It is longer than the average in all of the Western States. It may be asked if the same rule would not apply to New South Wales. Again the facts are conclusive. The railroads are built on a different gauge from the other colonies and the cars must be unloaded at the State line. This breaks the length of haul, which does not happen in the case of Texas. It is therefore safe to say that the average haul in Texas is over four times the average haul in New South Wales. This makes it necessary to add three terminal expenses to the Texas rate. Using my minimum figures for terminal the Texas rate is raised to 2.015 cents per ton-mile and using my



average it is 2.225. When we consider the further fact that the freight density in Texas is more than two and one-seventh times that of New South Wales, the conclusion is uncontrovertible that Texas is paying higher freight rates for the same service than New South Wales. Add to this the fact that passenger fares in New South Wales on a short 14-mile journey are less than half the Texas fares, and as the Australian roads are prosperous and the Texas roads in receiverships, you have a brilliant showing for Government ownership.

The efficiency of Government railroad management in New South Wales has been criticized because ton-mile figures were not published. They were collected but not published because the rates were high.



A map showing the rainfall in Australia.

But in England private ownership does not even compile ton-mile statistics. One road did it for a time, but has discontinued, and the English freight rates are the highest in the world except the United States, and possibly Switzerland.

The criticisms of private ownership are upon matters substantial and of great importance. The criticisms of public ownership are relatively trivial and unimportant.

#### JAPAN.

It is broadly claimed that Government ownership has been caused in each instance by some kind of a crisis. I do not think this is historically correct, and certainly it is not true as to Japan. The first

line was opened by the State in 1873. The first private line was completed in 1891. By 1895 the private mileage trebled the State mileage, but during the next dozen years State construction went on in greater proportion. In 1907 the Government took over most of the private roads, making its total mileage 4,879 and leaving only 506 miles in private hands. There was no crisis or other acute cause. The Government simply decided it was the best policy to pursue. That the decision was wise nobody doubts. I have been unable to find a single criticism of Government ownership in Japan from any of the opponents of Government ownership. They admit the management has been economical, the returns profitable, the improvements enterprising and extensive, the service excellent, and the rates the lowest in the world. The passenger rate is lower than the German, and they admit the freight rate is lower than the United States. (Dunn., 226-313-314.)

#### SOUTH AFRICAN DOMINION.

It is admitted that Government ownership is reasonably profitable in South Africa, but it is claimed that such is not generally the fact, and Prussia alone is excepted. It is a complete answer to this when we observe that Governments do not and should not run railroads for profit. Low rates, adequate service, and equal treatment of the public are the three great objects which Governments do accomplish. When the Government owns the railroads it is just as profitable to lower the rates as to increase the surplus. It is just as profitable to improve the service as to increase the net earnings. It is more profitable to treat the public fairly than to earn big dividends, because the Government never owes and therefore never pays dividends. It is perfectly easy to make Government ownership financially profitable everywhere, but such profits are usually and rightly not desired. Where they are earned they are mostly used for extensions, additions, and betterments which is a very proper and desirable use.

Mr. Acworth is the only writer that criticizes Government ownership in South Africa. He bases his criticisms solely on two official reports, which point out certain political evils. He contents himself with simply quoting the reports and neglects to tell you the action taken by the Government. The fact is, in each instance prompt corrections were made. If I should start in with a full recitation of all the evils of private ownership pointed out in the official reports of the Interstate Commerce Commission and this committee would listen to me, it would likely still be listening when the war is over. I shall only call attention to one. The original interstate-commerce act was supposed to give the commission power over rates. Ten years later the courts decided otherwise. After that for 10 years every report of the commission pointed out the evils of discrimination and excesses and asked for power over rates. It was the power of private ownership in politics that defeated this just demand for 10 years. It was during that period that Standard Oil and other great trusts reaped their lawless harvest of discriminations. I defy any opponent of Government ownership to point out any political evil in its history of one-tenth the magnitude of the one I have just recited. The political evils in South Africa are less than trivial in comparison, and they are offset many times by the advantages. In 1905 their

average wages were \$1,000 per year and the highest salary paid to the general manager was only \$17,000. The rates are elastic, but discrimination has always been unknown. All through the country, school children are carried free to school wherever they are not near enough to walk. Very low rates are made on agricultural products. The railways collect and deliver all freight, baggage, and parcels. The charge is 10 cents, 5 cents for collecting and 5 cents for delivery. When a passenger reaches his destination his baggage is delivered at once. Excess baggage goes at about double the freight rates. The parcel post carries 11 pounds, and above that weight freight rates are applied. A package of 200 pounds goes by passenger train at ordinary freight rates.

The management consults with the chambers of commerce, town and city councils, chambers of mining, and other organizations. In fact, the practical management is like the Prussian, democratic in every particular, and fully meets the needs and wishes of the people.

#### BELGIUM.

Belgium is a fine example of the success of Government ownership. The criticisms of it are petty and trivial. President Hadley, of Yale, who is opposed to Government ownership, says:

In judging the railroad policy of Belgium by its results, all must unite in admitting that they are in many respects extraordinarily good. What their averages are we have already seen. The passenger rates are lower than anywhere else in the world, except, perhaps, on some East Indian railroads. The freight rates are much lower than anywhere else in Europe. Nominally they are about the same as in the United States.

Their classification is also excellent. They have now got matters into such shape that the schedules themselves (which go quite into details) furnish a system of rates adapted to the wants of different lines of business and of different localities. What their rates have done for the development of business is strikingly seen in the history of the port of Antwerp, which is rapidly outstripping the somewhat similarly situated French port of Havre, a difference which is thought to be largely due to the different railroad policy of the two countries.

It is also true that they make a great deal of use of their equipment. The average carload is higher than in either Germany or France, though the construction is the same. The high percentage of expenses to earnings, which is often quoted against them, is really, *prima facie*, in their favor. If a country where the State has virtual monopoly of railroads shows too small a percentage of operating expenses, it gives good ground for the belief that rates are unnecessarily high, and that industrial interests are being sacrificed to financial ones.

The English writer, Charles Waring, says:

The advocates of State railways are entitled to take credit for the fact that, side by side with State administration and the successive reductions of rates and fares, the country has developed a degree of material prosperity unequaled by any other nation of similar area, population, and resources in the world.

Sir H. Barran, in an English official report, says:

It is certain that if managed solely as a commercial enterprise, the Belgian State railways would not have proved such a stimulus to national prosperity.

The first Belgian road was begun by the State in 1833 and opened in 1835. The Government employed George Stephenson, the greatest engineer of the age, to lay out its whole transportation system upon careful scientific lines. It used more sense in the very beginning than any other country on earth. The Government built part of the lines and gave charters to private companies for the others. For twenty years from 1850 to 1870 competition existed between the State and private lines. The State begun the battle by



a great reduction of rates in 1856. Both traffic and receipts increased at an astonishing ratio. In 1861 the reductions were extended and a regular sliding scale of charges, decreasing according to distance, was put in force applying to the lower grades. The result was an immediate increase of 72.4 per cent in the tonnage of these goods and the whole traffic increased 11.6 per cent. This was more than the increase of the three preceding years. The next year the sliding scale was extended to the third class and reductions were made for the second class. In the eighth year of the experiment the increase in tonnage was 108 per cent. In 1864 the minister of public works reported:

(1) The charges on goods have been lowered on an average by 28 per cent. (2) The public have dispatched 2,706,700 tons more, while they have economized \$4,000,000 on the cost of carriage. (3) The public treasury has realized \$1,125,000 more after having paid the cost of working and interest on capital.

In 1864 still further reductions were made and in the next seven years the traffic more than doubled, and in the next twelve years (1871 to 1883) it doubled again.

I go back into this history to show you that Belgium got the benefit of these reductions early in her history contrary to the usual course throughout the world.

Compared to Great Britain the Belgian increase for the first period was 113 per cent and the British only 68 per cent, and for the second period 96 per cent against the English 57 per cent.

In the early sixties the average freight rate in Belgium was reduced to 1.3 cents per ton-mile. In 1865 for less than 22 miles the passenger rate was 1.2 to 2.5 cents a mile, and it was lower for longer distances, going down to half a cent a mile. The Belgian first-class fare became less than half of the English third class, the second class less than one-third the English third class, and the third class less than one-fourth the English fare. And all of this happened in 1865. In 1905 the average passenger fare for the average journey was only three-quarters of a cent per mile, against the English fare two and one-half times as great. The latest figures I have showed the average passenger rate in Belgium to be 0.739 of a cent per mile and the English 1.75 cents. The average per ton-mile freight in Belgium is only 0.74 of a cent and the English 2.33 cents. The average density of all traffic and the passenger journey are about the same but the average haul for freight in Belgium is 49.7 miles against about 30 in Great Britain. A fair comparison shows that the English passenger rate is 135 per cent higher than the Belgian and the English freight rate over 100 per cent higher. Likewise a comparison with the United States will show that the American passenger fare is 200 per cent higher than the Belgian and the freight rate more than double for the same service.

What has been the financial results of operations upon those low rates! In 1870 the government started taking over the private lines. There was no crisis and no special cause except the dictates of good business and good service at low rates. There was a deficit at first but by 1872 there was a profit of 6 per cent on the total expenditure to date. In 1882 the profits were 5.62 per cent and in 1905 4.3 per cent. In 1905 the total expenditures had been \$429,000,000, the total receipts \$1,042,690,000 and the profits were \$251,000,000. This is a better showing than either the English or American roads can make upon their high rates and the Belgian roads have not been run for profit.

Against this solid substantial and even brilliant record for a small country where are the criticisms?

1. The Government did not want foreign money from Holland to control the railroads, and therefore they are a political institution.

To this I would say it takes a long stretch of a vivid and biased imagination to see any harm in such a political idea.

2. The Government, which is democratic and not autocratic, has remained in power for 32 years. The probable cause is the control of the railroad vote, which amounts to only 6 per cent of the total.

This seems to me like a case of the tail wagging the dog and a bobtail at that. There is no 6 per cent of common folks in the United States could control any election. Six per cent of railroad owners and like powerful allies might do it with their wealth and by the corruption of the public press, but there is no such danger from any other class.

3. The Belgian Government employs too many men on its railways. What if it does? It still does the business at about the lowest rates in the world and makes a profit.

4. It grants too many favors to the laboring man and permits him to live in the country far from his work. It ought to raise his fares so he would be forced to move to town.

Among my other occupations I am a farmer and live in the country far from my office. To people like me it is unthinkable that such a criticism would be seriously urged in this country. It entirely destroys the "back to the land" movement that has had universal support in our country during the last decade.

5. The train service and maintenance of the roads is not as good as either the German or the French.

Well, the better German train service and maintenance is all government owned and the French is more than half government owned and nine-tenths government regulated and besides the prosperity of Belgium under its system has easily equalled either the German or the French.

6. The Belgian Government went back 63 years and extracted \$2,122,472 in small items of additions to works and equipment which had been charged to revenue and charged them back against capital.

No claim is made that these charges are wrongful or fraudulent as to a single item. But when the Santa Fe Railroad reorganized it created \$100,000,000 worth of capital out of nothing and has been demanding a return upon it from the American public ever since. And the Santa Fe is one of the most modest railroads in the United States.

7. The Belgian railroads are in politics and just before the election in 1912 the cabinet ordered an increase in wages.

I have never yet heard of an American railway management that is not in politics 365 days in the year and 366 in leap years, and in 1916 just before the election the American Congress ordered an 8-hour day with 10 hours pay.

There is no merit in the criticism of Government ownership in Belgium.

It is also said that a commission was sitting in Belgium before the war and determined to recommend that the construction of new lines in the future be intrusted to a contractor, and that certain unnamed influential persons were in favor of leasing the State lines to a private company for operation and this after 70 years of experience, etc.

The principle of Government ownership is not violated by contract construction, providing the contract is honestly let to the lowest bidder. It is not claimed that the Belgian Commission contemplated letting the contract to the highest bidder as private ownership has always done in the United States for the purpose of watering the cost and capitalization to the gigantic profit of the big insiders.

It is true that private capitalists have tried to get possession of the Belgian railways, but such a surrender in the words of the recent prime minister—now here is the last official quotation upon this same subject, and here is what he said:

"Would provoke a revolution." This is far more authoritative than the gossip of any unnamed "influential persons" who were probably talking for their own profit.

Gentlemen, I have concluded my formal statement. The only argument left is that democracy can not do these things for itself. We are spending ten or twenty billion, perhaps forty or fifty billion, dollars for the defense of democracy right now. We have started in on that gigantic task because we believe in democracy. We are ready to expend the lives of our people, if necessary, to sustain democracy, but I insist, in conclusion, that it is a slur upon democracy that it is not entitled to bear when you say it is not efficient enough to manage its own business, its railroads, its public highways. If it can not do that, if it is so incompetent and inefficient, it is not worth the expenditure of these lives and this money to do it. It can do it and it can do it on an immense economic profit, and it can rid the politics of our country of the worst influence it has ever had.

I thank you, gentlemen.

The CHAIRMAN. I will state that we have assured the State commissions that they would have this time, and it was at the suggestion of Senator Cummins that Maj. Brookhart was invited to proceed on that time, and I think it desirable to go on with the commissioners.

Mr. SIMS. I will not think of interrupting. You have made this arrangement and sent for these gentlemen, and they are here on expenses, and while I think Maj. Brookhart might answer some questions that I would like to ask him and that his answers would be as valuable as those of anybody else, I am willing to yield if these other gentlemen are here on expense and you are anxious to have them heard. If they should get through in time, before Maj. Brookhart leaves the country and he can come, I should like to ask the privilege of calling him.

Senator CUMMINS. We can notify Maj. Brookhart if his presence is desired again.

The CHAIRMAN. Very well, the commissioners will go on to-morrow morning at 10 o'clock.

Thereupon, at 12.30 o'clock p. m., the committee adjourned until Saturday, December 15, 1917, at 10 o'clock a. m.



## INTERSTATE AND FOREIGN TRANSPORTATION.

SATURDAY, DECEMBER 15, 1917.

CONGRESS OF THE UNITED STATES,  
JOINT COMMITTEE ON INTERSTATE COMMERCE,  
*Washington, D. C.*

The committee met pursuant to adjournment, at 10 o'clock a. m., at Room 320, Senate Office Building, Hon. Francis G. Newlands (chairman) presiding.

The CHAIRMAN. The committee will come to order.

Senator Bristow, whom do you desire shall address the committee at this time?

Mr. BRISTOW. Mr. Chairman, I should like the committee to hear Judge Mills, of the Minnesota Railroad and Warehouse Commission.

The CHAIRMAN. The committee will be glad to hear Judge Mills.

### STATEMENT OF JUDGE IRA B. MILLS, CHAIRMAN OF THE MINNESOTA RAILROAD AND WAREHOUSE COMMISSION.

Mr. MILLS. Mr. Chairman and gentlemen, my name is Ira B. Mills; I am chairman of the Minnesota Railroad and Warehouse Commission. I was first appointed on that commission in 1900 by Senator Nelson, and I have been a member of it ever since that time excepting the year 1903.

The CHAIRMAN. What is your residence?

Mr. MILLS. St. Paul. I belong in the northern part of the State, but have lived in St. Paul so long that I call it my residence.

The commission has jurisdiction over steam rail carriers and suburban lines. We have no jurisdiction over the electric lines in St. Paul, Minneapolis or Duluth, but in all other parts of the State we have jurisdiction over electric lines.

Mr. SIMS. Have you any jurisdiction over water-power sites?

Mr. MILLS. No, sir. We have over the grain inspection of the State, and jurisdiction over the express companies, of weights and measures, and of track scales and we weigh all the coal that is shipped out of Duluth. A few years ago the telephone companies were added. We have the right to make rates for all carriers that are under our jurisdiction, and for telephone companies. We made an extensive valuation of the railroad companies. I think we have the best in the country, and in fact I do not know of any other State that has as complete valuation of railway properties. All of the tariffs of the carriers are required to be filed with the commission, and they can not be changed without the consent of the commission; and we also have the right to make joint rates and to compel the erection of depots and furnishing other station facilities—side tracks and elevators—and to industries, quarries, lime kilns, and brick

kilns and all other industries, and jurisdiction to require physical connections, and that has been extended now, so that it not only applies to crossings, but when they are within a half mile of two tracks—when they are paralleled a half mile—the commission has a right to require connections.

In 1905 the legislature, by joint resolution, required the commission to make examination into and adjust the merchandise rates in the State and to equalize the same between the different sections of the State. At the time of the passage of the resolution the merchandise rates in the southern part of the State were much higher than they were in the northern part of the State. The rates on wheat were lower in the northern part of the State than they were in the southern part, while the rates on coarse grains were lower in the southern part of the State than in the northern part of the State. At that time there was a very little coarse grain shipped from the north, that is, north of the Twin Cities, while the southern part of the State was producing a considerable amount of coarse grain, and the commission equalized those rates so that the same rates for the same commodities prevailed all over the State of Minnesota.

The legislature, in 1913, passed a distance tariff similar to your distance tariff, Senator Cummins, which provides that no greater charge shall be made for the haul of the same distance on any part of a line; that is, if the railroad company had a 50-mile haul on one part of its line it should observe that on all parts of its line, and we were required to make a tariff under that statute and if you know anything about making tariffs you know that it was no slight job. This tariff was really made by my associates. I was at the first few days of the meeting and then was taken with diphtheria and was quarantined for a month. So I am not able to go into that proceeding as fully as my associates are. Mr. Elmquist is here, and after I have finished, if you want to know anything about how that tariff is built, he will be glad to state it to you. But just for your information, gentlemen, I have brought some of them, and you will see that it is made upon a percentage basis. The first-class rate is fixed, and from that the other rates are a percentage of the first class.

This tariff, of course, is subject to the Western Classification. There is scarcely a day that goes by but that our commission is called upon to change or modify some rate; it is generally some switching rate, something of that kind, in the adjustment of the railroad facilities of the State, or the accommodation of them, and for the accommodation of the shippers. The companies will come in and ask a change—some change in some switching rate, and those are generally passed upon without a hearing, and passed upon informally.

SENATOR CUMMINS. Judge Mills, has your commission power to modify the distance tariff so that a greater charge can be made for a like distance in different parts of the State on the same commodity?

MR. MILLS. Not on the same line; no, sir.

SENATOR CUMMINS. You have no power to modify or change that tariff?

MR. MILLS. No, sir; we do not attempt to do that, and of course the distance tariff does not always work as well as it might. I do not like a distance tariff, because, taking, for instance, on the Soo Line. They came to us shortly after our rates were made and said, "We have been in the habit of collecting wood for shipment, pulp wood,

and other wood, giving a very low rate to concentrating points, and then it is shipped out of there to where it is sold." We had no power to modify the tariff so the shipper does not have the benefit of that concentrating point at the present time.

Senator CUMMINS. I would like your opinion upon the way that inflexibility works, whether it really does not solve a great many of the problems that otherwise would be rather vicious?

Mr. MILLS. In what way do you mean?

Senator CUMMINS. I mean any given rate that is charged the same over the same distance.

Mr. MILLS. Yes, sir.

Senator CUMMINS. And for a like commodity. Now, does that do any real hardship to the railroad companies?

Mr. MILLS. I do not know. We have had very little complaint of it since it has been in operation in the State. What harm we have seen from it has been that the railroad companies have not been able to accommodate such instances as I have cited.

Senator CUMMINS. How do you think it would work as applied to interstate rates?

Mr. MILLS. I do not think you could do it. I may be wrong about that, but that is my opinion about it. It does not work.

Mr. SIMS. Yours does not apply, then, to the interstate part of the rate going through Minnesota?

Mr. MILLS. No, sir; our statute is a little more liberal than yours. We can allow them to make a rate at a junction point. We have done it.

Senator CUMMINS. That is, you can allow the rate to a junction point that is lower than the intermediate rate?

Mr. MILLS. Yes, sir; that is not affected by this clause in the tariff.

The CHAIRMAN. In that way you make a smaller rate for the long haul than for the short haul?

Mr. MILLS. Yes, sir, sometimes, in order to meet competition at the junction point. Before that time we had always required them to blanket their rates back. I do not know of but one or two cases where we had ever abrogated the long-and-short-haul clause until after this rigid distance tariff was passed, and one of those was when the Northern Pacific had a very long haul around International Falls, and was in competition with a Canadian line, and we thought it was rather an advantage to the American road to have the business if they could get it.

We collected over 10,000 claims that resulted from the Minnesota Rate Case; that is, overcharges that were made at that time, and refunds were required by our statute, and there were over 400 cases of loss and damage claims in three years—the last three years—and we adjusted about 95 per cent of them without any trouble at all.

Mr. SIMS. What did the volume of refunds amount to, if you have it in your mind?

Mr. MILLS. \$150,000 that went through our office; \$3,000,000 were paid altogether.

Mr. SIMS. For refunds?

Mr. MILLS. For refunds in that case.

Mr. SIMS. That \$3,000,000 was all raised out of Minnesota traffic?

Mr. MILLS. It was raised out of Minnesota traffic. Of course, the complicated cases came to us. If there was a dispute about the pay-



ment of them they would be referred to us for adjustment, and there was some litigation where the companies disagreed with the commission's ruling as to what ought to be done, and I do not think that out of the five or six cases that were brought but one was lost.

Senator CUMMINS. Has your commission, in that respect, anything more than advisory power, or has it some definite and compulsory process by which it can compel the railroads to pay, if you find that they ought to pay?

Mr. MILLS. We can make an order, an action could be brought on our order, I think, under our law. I think we have the right to try that question, but we hardly ever have to do it. As Mr. Elmquist says, we never do get any; we never exercise that jurisdiction.

Mr. SIMS. It has never been necessary?

Mr. MILLS. It has never been necessary. While the facts are plain, you might just as well go into the courts in the first instance and try it out as try it before us, if there is a flat disagreement between the commission and the company after the company has been advised of what the decision is, and the Attorney General has brought this case under the Minnesota Rate Case reduction, so as to test it, and of course after the question has been settled the companies always paid the rest.

Just to give you an illustration of some of the claims that come to our office, and the use that the commission is to the public—and it sometimes happen that we help some one out in an interstate claim, quite frequently—there was a carload of immigrant movables shipped from one point in Minnesota to another point in Minnesota, and after two years had elapsed the railroad company wrote the shipper that he owed them \$47. There had been an undercharge, and that the law required them to collect it; if they did not, why they would be subject to some penalty. It was taken to a lawyer and the lawyer looked at it and he did not know what to do with it, and he sent it to us. After about a week we informed the company that he did not owe them \$47, but they owed him \$3.50 as an overcharge, which they paid.

We had another case of emigrant movables that moved from Iowa in the State, I think, from Lake Crystal, Iowa. The charge looked too high. It was brought into our office and we found there was a mistake in the weight, and we saved the man \$48 on that claim. Now, those are only two, but things similar to that, maybe not quite so brash, occur frequently.

Mr. ESCH. How did you get jurisdiction of that if it was an interstate shipment?

Mr. MILLS. We simply took it up and showed the company that they were wrong, and they paid it.

Mr. ESCH. You took jurisdiction?

Mr. MILLS. Yes, sir; they did not raise any question about the jurisdiction.

Senator CUMMINS. You are mentioning those things as indicating the value of a tribunal near to the homes of the shippers and business men?

Mr. MILLS. Yes, sir; and that is the reason that the local tribunal can do that much better than can a tribunal located in Washington. We are right at home and understand the circumstances and get all the facts in regard to it. Take, for example, the question of the rate.

The rate sometimes depends upon local conditions. I think I have held hearings in most every county in the State, and so have other commissioners, and we are quite familiar with our local conditions, but none too familiar, either. We find out the situation every day, and that is one of the reasons why you should leave the local commissions alone. There are some things that I would give the Interstate Commerce Commission absolute jurisdiction over, and one is clearances. I think the clearances should be the same at every place. I think that that would be better for the railroad men and better for the public, that the local standpipes, and one thing and another, should be a certain distance away from the car, and that crossing the State line does not make any difference.——

Mr. SIMS. Clearances and overhead bridges?

Mr. MILLS. Yes; and overhead bridges, and all that. Of course, we are not always able to adjust those things amicably. We sometimes have to make an order, and sometimes of course you will find that the companies are dissatisfied. I know a certain railroad man informed the Interstate Commerce Commission our commission was the most arbitrary between St. Paul and El Paso, and I was responsible for that, because I refused to allow them to maintain an electric bell on the crossing that was used principally by the students in a deaf and dumb institution.

Mr. SIMS. You were certainly right in that. It would have been better to have a flashlight in a case of that kind, so that they could see.

Mr. MILLS. Yes, sir; they could see it then. We have always taken an interest in looking out for the supply of coal up there through our northern country. Last winter was a very severe winter and the railroad companies thank us for what we did in helping them. In the first place, we start out early and advise people to buy their coal early, but the dealer does not want to order his coal and does not want to get it in until the men will buy it and take it out in the country, so it saves one handling of it. Last winter we were afraid somebody was going to suffer. We were getting telegrams most every day that some institution was out of coal, some school, or some county institution which needed coal, or that they were out of coal in a town, and it made no difference whether it was in our State or North Dakota or South Dakota, we have sent it. Having our grain department there, and knowing just what the situation was every minute there, we were able to inform the companies in some instances and work with them, and we got through the winter.

Mr. ESCH. How is the situation now?

Mr. MILLS. Well, I think there is going to be coal enough in the Northwest to get through. The companies are taking in a great deal of coal for their own use, and that has not been counted in the general amount of coal in the country, because it has gone in not from the head of the Lakes, but they have taken in a lot of soft coal from Iowa and Illinois fields, but of course we have got to keep our hands on it all the while and find out what it is. But it is a bad country to be out of coal in.

Our State is a large potato-growing State. North Dakota has commenced in that line, and we have already tried to get refrigerator cars to move those potatoes in. We have asked other roads to send them up. It does not do to let the refrigerator cars go south; if they do we never get them back. That is, they stay south for six

months or so at just the time you need them, and this year there were a lot of potatoes to move, and to move early, but the Government seemed to need the cars for other purposes, and they were kept off our lines, and the consequence is we lost quite a few potatoes as a result.

MR. ESCH. You have no power under your law to compel a special equipment, have you?

MR. MILLS. No, sir; I hardly think that would be practicable in the State in the way railroads are handled, for the State to have an equipment that would be specially for its own use. The equipment now, of course, is overtaxed. There is a great deal more work than they had anticipated. The cars and engines go into the shops without having time to remain there long enough to be properly repaired. They are simply repaired so that they can go out on the tracks again and commence to work.

MR. ESCH. In that particular reference, for instance, to your shipment of potatoes from the field of production to the terminus, St. Paul or Minneapolis, wholly on intrastate shipments, could you compel, under your law, the use of heated cars?

MR. MILLS. We compel the use of heated cars, if they had the equipment, and I am not so certain but what we might go so far as to require an equipment, or other cars fixed so that they could be used, but we have never attempted that, and I do not think it is necessary.

SENATOR CUMMINS. Have you a statute which attaches a penalty for the failure of the railroad companies to furnish cars when asked for by shippers?

MR. MILLS. No, sir; but our courts have held that if a railroad refused to furnish cars unreasonably that they have a right of action to cover damages for that.

SENATOR CUMMINS. That is simply a common-law action?

MR. MILLS. Yes, sir; just a common-law action. As Mr. Elmquist advises me, we had a reciprocal demurrage law that the United States Supreme Court said was unconstitutional.

THE CHAIRMAN. I think the members of the committee had better follow the rule and let the witness close his remarks before questions are asked.

MR. ESCH. Very well, Mr. Chairman.

MR. MILLS. Now, this year at the present time it is necessary that cars, particularly those containing green stuff, perishable goods, should be unloaded promptly, and we took up that subject, and the railroad companies very willingly agreed to furnish us every other day a report of the cars that had been remaining on the tracks for more than the free time, and we sent them a letter. The first letter is as follows:

We are advised that on the ..... day of ..... car No. so-and-so, shipped to you, which was spotted for unloading, still remains unloaded. In view of the acute car shortage and the danger of perishable fruit and vegetables spoiling, the commission will request that immediate delivery be made of the shipment in question, or a reconsigning order issued without further delay.

The commission feels it will have your hearty cooperation in view of the abnormal conditions existing at the present time.

The second letter is as follows:

We advised you under such-and-such date that car No. so-and-so still is on the track and unloaded. By subsequent reports we find that the car still remains un-



loaded, or that no disposition has been given for the same. The commission trusts that you will give this matter your immediate attention, as these requests are made for the purpose of preventing perishable foodstuff from spoiling and to release the car equipment, which it is necessary to do at the present time on account of the acute car shortage, and the department trusts that this matter will receive your attention at once. It is delays of this nature that are causing the agitation for increased demurrage charges, which it is desirous to avoid, if possible, but unless the commission gets the cooperation of the shippers in unloading vegetables and fruit, or it is given disposition promptly, it will be compelled to adopt such vigorous measures as in its judgment seems best in order to insure this being done.

We are advised by the companies and also by the shippers that it has had a very great effect; that there are fewer cars every day that are left over and held under load.

The statute gives the right of an appeal from all orders of the commission by any person who feels aggrieved thereby, and also the attorney general, if he is dissatisfied by an order made by the commission, has the right to appeal. The courts of our State have held that they have no rate-making power; that they can not place themselves in the place of the commission and make a rate but that their power simply means to either reverse the order of the commission, or affirm it, and it comes back to them if the court finds the rate is unlawful or unreasonable.

At an early date our law was modeled on the interstate commerce law and was passed a few days subsequently to the passage of that law, and under our law the Supreme Court of the State held that there was no appeal and no review from the commission's order; that the only appeal that the railroad companies had was to the legislature for a different law. But the Supreme Court of the United States said that under the proper construction of the law it was unconstitutional to deprive the people of the right of their day in court, and then the law was amended allowing an appeal, or to be tried formally by mandamus.

My opinion is, gentlemen, that if you take this power away from the State commissions the poor man is out of it. If a complaint is made to the Interstate Commerce Commission they get an answer that the complaint has been received and that it will be taken up with the railroad companies. It is taken up with the railroad company and the railroad company generally justifies itself, and then they are notified: "If you wish to proceed further with the matter, make your formal complaint."

Now, a man with a few hundred dollars involved can not do it. He has got to employ an attorney, and if he lives in a small town he can not find an attorney who knows anything about it who can give it any attention, or who knows how to try it after he has made the complaint. As it is now, he goes to his State commission, and if there is any merit in it, the State commission will take it up and through their attorney, or one of their members, will present it to the Interstate Commerce Commission for the claimant. I know in our State that has been the source of a great deal of benefit to the shipper. We not only post him on the rates, but we take up his matters even before the Interstate Commerce Commission; our law advises us to, and we get them settled in that way, and it does not cost him anything. The railroad companies want to take this control as far away as possible. The farther they can get from home the better. Now, they are a very nice lot of gentlemen, and we have got along very nicely with them, but human nature to-day is just exactly the

same as it was in Vanderbilt's time, and those gentlemen want control. Of course they do, because control is a very important thing. But it would be a saving of a vast amount of money to them that they have to pay for overcharges and for other matters. It is now attended to by the State courts.

I was asked by Mr. Finn, who was chairman of the national association, for my opinion about this question, and at one time I advocated just what the railroads are asking now. I met some of my associates at the national association, and they said, "I wish you would consider that; I wish you would find out how your commission is working, and how these matters are taken up and handled by the Interstate Commerce Commission."

Now, I do not want you gentlemen to think that I am criticizing the Interstate Commerce Commission for a moment, for I am not. They are a body of able men trying to do the best they can, but you can not sit here in Washington and send some man out through the country and know the local situation as your local commissioners get it. American jurisprudence is based upon the idea of finding out the facts in a case and finding them out in the locality before a jury that understands what the people are testifying to. The idea is that they are the best qualified to find what the facts are, and that is just so in this matter; and I was obliged, after reviewing the subject, and after watching its workings at home, to come to the conclusion that your State commissions are almost indispensable, and I think you would have a better Interstate Commerce Commission to-day if it was based more upon the theory that your courts are based on, with a local court to try the case in, and an appeal to the main commission, and that, with the help of your State commission makes it possible for you to have a pretty thorough Government.

This is not oppressive to the companies. It is easy to talk about it. They seem to have the newspapers, the other side, and that puts me in mind of the fact that they tried the Minnesota Rate Case by newspapers almost entirely. We were trying them in the courts, and after the opinion of the Supreme Court was written and pretty generally published, I had at least 10 or 12 men in my own town come to me and say, "We do not understand that." Of course, they did not understand it, because they could not get it in the newspapers. The railroads seemed to have their ear, and what they say goes through the newspapers. You see an article most everyday as to what a great hardship these people are put to. They do not tell them at home. There they are local men, and a great many of them prefer to have it remain as it is. It is only the gentlemen high up who want it changed.

That is all I have to say, gentlemen, and I thank you. Mr. Elmquist is here and he can speak to you with regard to the tariff and tell you how it is made, and all about it, if you would like to hear it.

The CHAIRMAN. Are there any questions that any member of the committee desires to ask?

Senator CUMMINS. I think Judge Mills has stated the situation from that standpoint with great clearness, and I think I fully understand his view of the matter.

Mr. SIMS. I would like to ask a few questions. You said something about the valuation of railroad property in the State of Minnesota. Was that valuation by the Minnesota Railway Commission?

Mr. MILLS. Yes, sir.

Mr. SIMS. And if you know whether or not their valuation corresponds substantially with the valuation—what it would be by adding the market value of stocks and bonds outstanding?

Mr. MILLS. No, sir; I do not know.

Mr. SIMS. You do not know whether it was relatively the same or not?

Mr. MILLS. No, sir; I do not think, if my recollection is correct, that very many of our roads are overcapitalized.

Mr. SIMS. I do not mean that your valuation was not correct. I wanted to see what relation it bore to the market value of outstanding stocks and bonds—if you had looked into that—of same properties.

Mr. MILLS. The valuation, Mr. Elmquist says, on the Northern Pacific and Omaha & Great Northern, so far as our State is concerned, was about equal to the valuation of the commission.

Mr. SIMS. The market value?

Mr. MILLS. Yes, sir. Of course the Great Northern is very heavily capitalized, and the Minneapolis & St. Paul is in poor shape. Of course railroads do not start any place, or get any place—

Mr. SIMS. You said you have the power to make joint rates?

Mr. MILLS. Yes, sir.

Mr. SIMS. Do you mean you have the power otherwise than by the mere consent of the interstate railroads to make joint rates?

Mr. MILLS. I mean joint rates for State shipments.

Mr. SIMS. Oh, within the State?

Mr. MILLS. Yes, sir.

Mr. SIMS. I understand you. Now, if I understood you correctly, you have a rigid statute as to long and short haul, applying to shipments within the State of Minnesota?

Mr. MILLS. We used to have. We have a rigid long-and-short-haul statute, but we have the right to abrogate it, which we have done since this statute was made, not allowing any greater charge for the same distance on the same road.

Mr. SIMS. Your long-and-short-haul clause—I am calling it that simply because the public understand it in that way—is applicable only to shipments within the State?

Mr. MILLS. Yes, sir.

Mr. SIMS. Originating within the State?

Mr. MILLS. Yes, sir; we do not pretend to legislate for anything outside of the State. If we did, it would not be any good.

Mr. SIMS. As I understood you, there was about \$3,000,000 of money refunded to the shippers of the State of Minnesota after the decision in what is known as the Minnesota rate case?

Mr. MILLS. Yes, sir.

Mr. SIMS. That amount of money, then, had been collected on shipments in Minnesota in violation of the law?

Mr. MILLS. Well, they had been collected while the injunction was pending restraining them from adopting the State rates. It was an injunction in the Federal courts.

Mr. SIMS. In other words, they just continued to collect the rate they were collecting before the Minnesota commission made it?

Mr. MILLS. Yes, sir.

Mr. SIMS. But the Supreme Court held the order of the Minnesota commission to be valid?



Mr. MILLS. Yes, sir.

Mr. SIMS. And the people of Minnesota then benefited to the extent of \$3,000,000 on shipments made pending the action of the court?

Mr. MILLS. Pending the litigation; yes, sir.

Mr. SIMS. If you have looked into it—and if you have not you need not reply to my question—have you an idea, upon the average, about what the transportation cost of the movement of coal is as compared to the total cost of it to the consumer?

Mr. MILLS. I could not tell you that.

Mr. SIMS. You spoke about the newspapers carrying the news and making statements which seemed to be, as a rule, favorable to the railroads?

Mr. MILLS. Yes, sir.

Mr. SIMS. I have noticed that myself in my own experience, but what is that due to, if you know?

Mr. MILLS. Well, I do not know what it is due to except that they can always get the news from the railroad companies. They have a publicity department, and outside of our own papers, I never saw a correct statement of the position of our commission in the Minnesota rate case.

Mr. SIMS. That is a full and fair statement, so that the public mind would have an opportunity to judge of all sides of the question before the court.

Mr. MILLS. Yes, sir; and to anyone who did know what the facts were some of the statements were very amazing. Even the Saturday Evening Post took it up in an editorial.

Mr. SIMS. Is it not also a fact that the public mind to-day has been largely formed—I mean that its mind has been made up from such information as was furnished them through the press of the country in the very way you have mentioned?

Mr. MILLS. That is my opinion.

Mr. SIMS. I have noticed here, in some particular instances where I had opportunity to personally know what happened, that especially away from here, the news printed in the papers as to value was more reported than the other side, and it seems to me the public mind has been thus affected very generally, and is not really well informed as to what has taken place either before the courts, the State commission, or the Interstate Commerce Commission, or committees in Congress.

Mr. MILLS. That is my opinion.

Mr. ESCH. You have a valuation in Minnesota, have you not?

Mr. MILLS. Yes, sir.

Mr. ESCH. Is it a physical valuation?

Mr. MILLS. Yes, sir.

Mr. ESCH. Is it for rate-making purposes, or taxation, or both?

Mr. MILLS. We use it for that; we think it is as near what it will cost to reproduce those roads as can be made. If I had known before that you were interested in it, our engineer who just went home yesterday could have told you about it.

Mr. ESCH. I was wondering whether your valuation could be practically accepted by the physical valuation board of the Interstate Commerce Commission, and thus avoid a whole lot of work.

Mr. MILLS. Well, I do not think they will accept it. I think they have taken their own inventory there.

Mr. ESCH. Do they follow a different line of valuation from your own commission?

Mr. MILLS. I do not know what they have followed. They have just made a report, as I understand, to the commission, which has not been approved as yet. It was argued day before yesterday, and they presented them as to our theory of it.

Mr. ESCH. You say your reciprocal demurrage law was declared unconstitutional by the Supreme Court?

Mr. MILLS. Yes, sir.

Mr. ESCH. Can you give me a citation of that?

Mr. MILLS. No; but I can send it to you.

Mr. ESCH. I will be glad to have you do so. Do you believe in reciprocal demurrage?

Mr. MILLS. No, sir.

Mr. ESCH. Why?

Mr. MILLS. Well, one of my great reasons is that as to our demurrage law, before it had ever been attacked, there never was a cent of reciprocal demurrage paid; and another reason is that my opinion is that if demurrage is for the purpose of releasing the car and the shipper is fully protected by an action for damages if the car is not promptly furnished, and there have got to be so many exceptions for the furnishing of the car that it seems to me it will be almost impossible to make a workable reciprocal demurrage law. Other commissioners feel differently from the way I do as to that. A very able man, Mr. Hill, of Georgia, when he was on the commission, was very much in favor of the reciprocal demurrage law.

Mr. ESCH. Has your commission—your State railway commissioners—taken any action with respect to reciprocal demurrage?

Mr. MILLS. Mr. Elmquist, have we?

Mr. ELMQUIST. It has been discussed a number of different times but no report approving reciprocal demurrage has, to my knowledge, ever been adopted by the National Association.

Mr. MILLS. I know that Mr. Lane, when he was on the Interstate Commerce Commission, was very much opposed to the reciprocal demurrage, and he had given the subject a great deal of thought.

Mr. ESCH. Did I understand you to say that one advantage of the State commission was the facility it gave to the complaining shipper of having a speedy adjustment through the informal action of the commission?

Mr. MILLS. Yes, sir.

Mr. ESCH. Did I understand you to say that on interstate shipments the shipper's complaint to the Interstate Commerce Commission was generally justified by the carrier?

Mr. MILLS. No; not that the complaint was justified, but that the commission or the carrier was generally justified in a letter to the Interstate Commerce Commission.

Mr. ESCH. And that led to a formal complaint?

Mr. MILLS. That led to the requirement of a formal complaint, the correspondence I have seen.

Mr. ESCH. The last report of the Interstate Commerce Commission, just made public, says:

Informal complaints numbering 5,300 were received, an increase of 361 over the preceding year. Many of these complaints were adjusted to the satisfaction of the parties. Of the remainder some were later presented as formal complaints requiring formal hearings.

Mr. MILLS. Yes, sir.

Mr. ESCH. I understand the percentage of complaints that have developed into formal complaints is very small, so the Interstate Commerce Commission uses practically the same methods that you do.

Mr. MILLS. Well, we won't get formal complaints as quick as we would, and we would send the shipper—if he made complaint to us—a complaint to sign and state the facts.

Mr. ESCH. May I ask Mr. Elmquist one question with reference to the scale filed?

Mr. MILLS. Certainly.

**STATEMENT OF MR. CHARLES E. ELMQUIST, MEMBER OF THE MINNESOTA RAILROAD AND WAREHOUSE COMMISSION.**

Mr. ESCH. Mr. Elmquist, do you adopt a standard description, etc., of the western classification committee?

Mr. ELMQUIST. We adopt the western classification, but we reserve the right to make such modification to that in the matter of exceptions as local conditions require. We have made quite a number of exceptions to the western classification.

Mr. ESCH. Do you see in that an advantage by retaining State commissions and State control?

Mr. ELMQUIST. I do. Take, for example, the question of minimum rates. In the movement of grain and grain products I think the minimum on interstate shipment is now 60,000 pounds per car. In our State we have investigated the question several different times and we have found that it is absolutely necessary to have a very much smaller minimum on those shipments to take care of the small dealers throughout the State who are without the storage capacity or the capital or the ability to buy flour in 60,000 pound lots.

Mr. ESCH. Do you think it will be impossible or rather impracticable for the Interstate Commerce Commission to make long exceptions to classifications in the States to meet local conditions?

Mr. ELMQUIST. I think it will be impracticable because the Interstate Commerce Commission looks at transportation in a big way; it must protect rate relationship between markets, and hence it does not concern itself with local conditions. Therefore you must have a local agency which is familiar with these local conditions to whom local people can present their grievances.

Mr. ESCH. Then, you see in the retention of a State commission a reason based upon classification?

Mr. ELMQUIST. One of the reasons.

Mr. ESCH. A very important reason?

Mr. ELMQUIST. It will grow less important as the States grow in population and as business conditions develop, but at the present time it is quite an important consideration.

Mr. ESCH. Is the western classification committee speeding up?

Mr. ELMQUIST. They are trying to adopt a uniform classification to some extent. They have been making a great many changes in the classification during the last few years, but the time is far distant, in my judgment, when we will have one uniform classification applicable to all classification territories, or even throughout one district.



Mr. ESCH. Do you think it will be possible to have a uniform classification coextensive with the United States?

Mr. ELMQUIST. No, sir.

Mr. ESCH. Do you think it would be advisable to do it?

Mr. ELMQUIST. I do not; local conditions must be considered.

Mr. ESCH. Do you think that the three classification territories should maintain certain differences as they now observe them?

Mr. ELMQUIST. I should think there should be differences, based upon operating traffic, and industrial conditions in different sections of the country suited to the needs of the community as well as the carriers. Perhaps these local conditions can be taken care of by exceptions to the general classification.

Mr. ESCH. You have a right to have a representative present in western classification committee's hearings, have you?

Mr. ELMQUIST. By invitation we go there. At their meetings there never has been objection to a member of our commission or our rate men being there.

Mr. ESCH. They have been there, have they?

Mr. ELMQUIST. Yes, sir.

Mr. ESCH. Have you presented to them your local conditions which require these exceptions to their classification?

Mr. ELMQUIST. We have.

Mr. ESCH. Have they adopted them?

Mr. ELMQUIST. Sometimes. In many instances they have not.

Mr. ESCH. That is all.

Mr. ELMQUIST. Mr. Chairman, I should like to make one observation on the question of the tariff which Judge Mills referred to, the distance tariff. While it is very important that States shall have the rate-making power, yet I apprehend if we enter into a minute discussion of the methods that were employed in making that tariff and the different considerations that were before us, we would occupy a good deal of time, and possibly it would not be of very much assistance to this committee in the formulation of its report to Congress. However, if you desire me to do so, I shall be glad to discuss it.

The CHAIRMAN. It is my view personally that it should not be received, and unless the committee is of a contrary view, we will not receive it at the present time.

Mr. SIMS. I desire to ask Mr. Elmquist one or two questions.

Mr. ELMQUIST. May I make just one comment?

The CHAIRMAN. Certainly.

Mr. ELMQUIST. I am not here with the intention of being a witness, but since the invitation to testify has been extended this morning, I would like to say this: Judge Mills has covered the local situation very well, but there is one important duty that has been accepted by the State commissions that he has failed to call your attention to.

While the State commissions have a great deal of local work and responsibility, still they have become very much interested as well in interstate rates and conditions. Back in the central part of the country where I live—embracing the States of Minnesota, Iowa, Kansas, Nebraska, Oklahoma, and some of the others, the commissions in recent years have consolidated their efforts, not to oppose, but to investigate the reasonableness of the application of the carriers for increase in interstate freight and passenger rates.

When the Western Advance Rate case was tried here a few years ago, quite a number of State commissions consolidated their efforts and expended about \$60,000, which was secured from contingent funds or by appropriation, for the employment of accountants, engineers, and traffic men to make a study of the claims of the carriers. We were present at all times during the trial of that case, and the Interstate Commerce Commission denied the application of the carriers to increase their freight rates. They did, however, permit the carriers to increase the interstate passenger rates to 2.4 cents per mile in the northern territory and make higher increases in the southern and western territory. Recently in the general application to increase rates 15 per cent throughout the country, the commissions again united their forces and they had their group of men here in Washington, who came to study the question for the purpose of investigating the reasonableness of that demand. The commission at that time again denied the application of the carriers to increase their rates through the western territory. The western lines made application to increase their rates recently. That application was to have been heard by the commission on the 17th of December. Our commissions again had decided to be here to attend the Interstate Commerce Commission and investigate the reasonableness of that charge. They have done so recently in the application of the express companies to increase express rates throughout the country.

So you see that the State commissions, with their effective organizations, with their understanding of rates and accounting, and other methods, have grown beyond their usefulness as local agencies. They have become very important agencies of the public in respect to interstate commerce and do render great assistance to the Interstate Commerce Commission in the consideration of many of the questions before that body.

Commissioner Hall, of Nebraska, just made a suggestion which I think is very timely, and that is that the Interstate Commerce Commission recognizes that when the local commissions interest themselves in these interstate problems it is not in a hostile attitude, but really as friends of the court, to help that body get at the true facts so that it can make a just decision, based upon the law and the evidence.

Mr. SIMS. I would like to ask you one question, or maybe more. Do you know about what the relative amount of freight and passenger charges collected in Minnesota with reference to intra and interstate shipments are?

Mr. ELMQUIST. Our intrastate business is about 35 per cent of the total.

Mr. SIMS. What relation as to the passenger?

Mr. ELMQUIST. The passenger would be larger than that. I can not tell you right off.

Mr. SIMS. But it would exceed 35 per cent?

Mr. ELMQUIST. I think so. Minnesota is peculiarly situated. We have the Twin Cities, almost in the center of the State. We have a large milling industry, and freight from all over that section is going into the cities. There is a tremendous quantity of it that is being shipped out from there.

Mr. SIMS. This gentleman stated, and we take it for granted, I believe, that the interstate traffic of the country, including freight and passenger, amounts to about 85 per cent of the whole.

Mr. ELMQUIST. That is about right.

Mr. SIMS. But as far as the State of Minnesota is concerned, it does not amount to that much?

Mr. ELMQUIST. No, sir.

Mr. SIMS. So that the power of the State commission of Minnesota, in so far as they are affected—that is the receipts of the railroads for services performed in your State—are larger than the average, and, therefore, any action taken by your commission affecting local receipts or receipts of the State indirectly has an effect upon the interstate rates in excess of the general average of such effect?

Mr. ELMQUIST. If a schedule of rates were made which was much lower than the interstate traffic, of course it would indirectly burden the interstate commerce. But in arranging all our schedules we try to take into consideration and do take into consideration the status of the interstate rates. Generally speaking, the rate per ton per mile is higher upon State than upon interstate traffic for the same distance.

Mr. SIMS. In case the legislation asked for by the railway executives is passed and the provision for the regional commission therein suggested is passed, would such regional commission, in your opinion, serve all the purposes that are beneficial to the public—the local public and the general public—that the State commissions do now?

Mr. ELMQUIST. That would depend upon the size of the territory, the extent of the territory in a regional zone.

Mr. SIMS. As to how many cities were included in it?

Mr. ELMQUIST. Yes, sir; and whether those persons were appointed from the State or sent from other parts of the country.

Mr. SIMS. To serve?

Mr. ELMQUIST. Yes, sir; it would be possible to have regions consisting of one State or a group of States of the same geographical and commercial conditions, select a board of three men from that territory, who understand local conditions and would be able to deal with them fairly. But the danger of having regions established is that there might be a tendency to make them too large and therefore lose the purpose for which they were created.

Mr. SIMS. Do you know about what the average cost to the State of Minnesota, directly and indirectly, is in maintaining its commission and its activities? I do not mean to ask you anything about specific facts, but just in a lump.

Mr. ELMQUIST. I should say about \$70,000 per annum.

The CHAIRMAN. And its activities are largely outside of the railroads, are they not?

Mr. ELMQUIST. Well, the large part of the money—all of the money, in fact, that is used in inspection and weighing of grain and hay and straw, is secured by assessment against the cars for service performed. Therefore, the expense of the work is not taken out of the appropriation of the State. So I would state that \$70,000 embraces the cost to the State for service of the commission and its force of men in the control of transportation, express companies, and now the telephone companies. This commission also has charge of the Weights and Measures Department.

The CHAIRMAN. It has jurisdiction over other public utilities, has it not, also?

Mr. ELMQUIST. Recently it was given jurisdiction of the telephone companies.



The CHAIRMAN. How is it with reference to gas companies?

Mr. ELMQUIST. We have not that jurisdiction.

The CHAIRMAN. And electric power companies?

Mr. ELMQUIST. No, sir.

The CHAIRMAN. That is all.

Senator CUMMINS. Will you state for the record just what your position is?

Mr. ELMQUIST. I was a member of the Minnesota Railroad and Warehouse Commission for nine years and severed my connection with that body on the 15th of November to assume the position of solicitor for the valuation committee of the National Association of Railway and Utilities Commissioners.

Senator CUMMINS. Mr. Elmquist, one of your observations presents a very interesting, and I think a very important matter. I would like to develop it a little. These State commissions, which have appeared before the Interstate Commerce Commission in the proceedings that relate to interstate rates, are authorized generally to do it by statutory authority, are they not?

Mr. ELMQUIST. By the act of Congress as well as by the State laws.

Senator CUMMINS. And that is a work entirely apart from the work that they do in controlling intrastate rates?

Mr. ELMQUIST. Yes, sir.

Senator CUMMINS. In the proceedings before the Interstate Commerce Commission, the State committees appear as representatives of the interests of their various localities, I assume?

Mr. ELMQUIST. Yes, sir.

Senator CUMMINS. And not in any sense as judges or as clothed with authority to do anything except to represent their various localities.

Mr. ELMQUIST. They are to represent the public interests.

Senator CUMMINS. If the authority to maintain and conduct offices for the purpose of adjusting intrastate rates were taken away from the State commission, do you think they would be as well qualified and as efficient in appearing before the Interstate Commerce Commission to inquire into interstate rates, as they are now?

Mr. ELMQUIST. No, sir; because they would lose their interest in the rates as well as their knowledge of the rates. A man is valuable as his experience grows, and if he did not have any experience in making and considering State rates, he naturally would have very little ability in present questions involving interstate rates.

Senator CUMMINS. So if their organization for the purpose of adjusting or regulating intrastate matters were taken away from them, they would practically disappear as representatives before the Interstate Commerce Commission?

Mr. ELMQUIST. I think, Senator Cummins, that if the States were to lose their control over State rates, the only protection the public could expect would be that which would come from regularly employed counsel and rate men of some of the large shippers or large corporations.

Senator CUMMINS. Do you think it would be practicable in the event the State commissions were legislated out of existence to substitute for them any other organization which could do the latter thing; that is, appear for their various communities before the Interstate Commerce Commission?

Mr. ELMQUIST. Well, the only substitute that you could have for the State commission, which would be effective at all, would be by the establishment of zones and the creation of officers within those zones who would have authority to do the same things that the State commissions are doing now in regard to service, and also to decide, to hear, and determine questions involving interstate rates. But there can be no development of the regulation of the carriers that will be fair which ignores the right of the public to have local representation.

Senator CUMMINS. But to maintain any such independent organization, even if it were done by the authority of the State, and to give it the familiarity which is necessary to be helpful, it would be about as expensive as the present State commissions, would it not?

Mr. ELMQUIST. I should think so. This is a suggestion, Senator Cummins, and I do not want to include this at all, if it is improper. The newspaper have been intimating within the last few days that the Government will take over the operation of the railroads during the war. If the Government should take over the operation of these railroads during the war, and should eliminate these local commissions with their strong organizations, I think it would find itself in a very peculiar position. Local questions will always be with us and the public must have local tribunals to whom local complaints can be presented. The Government would find these local organizations to be very useful and indeed necessary to the successful operation of the railroads.

So if the Government would conclude to take over these railroads during the war, it should do so with the express understanding that it would utilize these local commissions with their vast experience and their strong local organizations.

Mr. SIMS. If you will permit me to make a suggestion there, I have not the slightest doubt myself if that were done, but that the Government would find it both desirable and necessary to do just what you spoke of.

Mr. ELMQUIST. I am glad to hear you say so, Mr. Sims.

Senator CUMMINS. I wanted to make that one point clear. I have nothing further to ask.

Mr. ESCH. From what you said, I judge you could well qualify as a valuation expert.

Mr. ELMQUIST. Not as a valuation expert.

Mr. ESCH. You have familiarity with values?

Mr. ELMQUIST. That is an engineering problem.

Mr. ESCH. But you have valuation experience?

Mr. ELMQUIST. Yes, a little.

Mr. ESCH. While you were on a commission, and a commission which has developed a valuation as few States have developed it, what, in your opinion, is the utility of the physical valuation of railroads by the Interstate Commerce Commission? Do you think the work should be continued?

Mr. ELMQUIST. That is a big question. Certainly the work should be continued. There is chaos throughout the country in respect to the valuation of railroads. Different States have valued their properties for different purposes. Your own State places the valuation for taxation purposes, and so does Michigan; we have them valued for rate-making purposes.

There is a strong suspicion that the capitalization exceeds the value of the railroad properties. Now it occurs to me that valuation is important for four reasons: First, we can use the valuation not in interstate and in State matters, as a basis for the determination of reasonable rates. It can not be expected as regulation advances that many States will go to the large expense of valuing these railroads and keeping up the value of additions and betterments every year, just for the purpose of being able to determine what a reasonable rate shall be of a just or proper amount of taxation. It is a tremendously expensive job. So from that standpoint alone, when this valuation has been completed and the report has been made to Congress showing the cost of the different classes of property which go to make up a railroad, and this value is shown upon State lines, all of the States will have the information which is necessary to enable them to determine the different questions that come before the commissions, the taxing officers, and other tribunals.

That is one branch of the subject. Truly there can be no way of determining the proper relation of capitalization to the valuation of properties that the public are using until the Interstate Commerce Commission has completed this work, and it seems to me that if there is anything that is vitally necessary in this country, it is to stabilize securities by having this valuation completed. Then we are not going to have the shocking experience of the vast rise and fall of railroad securities without any apparent reason.

So from the standpoint of the stockholder, it is immensely important to have this work completed. On the question of your interstate rates, let me point out this illustration to you.

In the Western Advance Rate cases—and pardon me if I have taken too much of your time—which were tried a few years ago, 41 railroad companies consolidated into really one system of railroads. They presented their case as one system. They came before the commission and showed that the net operating return for all of those 41 railroads was, if I remember correctly, 3.4 per cent. Of course in that group of railroads, there were some that were good and very many that were bad; but they recognized the whole as one system. They made a return upon the basis of the book value of those properties and regulating bodies are pretty well convinced that book value is not a reliable basis of value.

What could the State commissions do to meet that situation? We did not know the value of all or any of those 41 different railroads; we did not know how much had been taken out of earnings and expended in betterments and improvements; we did not know even that the accounting system was correct. If the Interstate Commerce Commission, in that proceeding, had known what all or most of those different railroads were worth in the western territory it would have, at once, been able to ascertain what returns the net operating income produced upon the value of those properties.

Recently we have had the 15 per cent case, which was nation-wide, and the commission had to depend absolutely upon the operating income by years, making a sort of comparison, which, after all, is not the best way to find out what return the carrier is entitled to. By this system no knowledge can be obtained to show the return upon the value of the property or the actual investment.



I could proceed at length along this line to show the necessity, it seems to me, of determining the value of these properties.

Now, you are facing Government operation. I do not think that any rational person will underestimate the importance of that step. We are passing through an era of high prices; the cost of living is increasing day by day. People are making huge profits out of the goods they are manufacturing.

In my section of the country, the stable farmers and other people are flocking to socialism by the thousands and tens of thousands. That plainly indicates that, as the war continues, there will be a demand for an extension of governmental activities. If the Government, during this crisis, succeeds in operating the railroads in a satisfactory way, giving better service, eliminating useless competition, pooling their equipment and succeeding in giving the country better transportation at less cost, I think all of us realize that it will start an agitation for public ownership. When that time comes, gentlemen, how are we to determine what to do unless we know something about the value of the properties? So, it occurs to me, that there is a greater and more substantial reason for completing the valuation of that property to-day than there was when Congress passed the act.

Mr. ESCH. I am glad you made that extended statement. If the State commissions are abolished under the proposed plan, then the States would have no longer any interest in making State valuations.

Mr. ELMQUIST. No, sir.

Mr. ESCH. And that would increase the necessity of valuation by the Government?

Mr. ELMQUIST. Surely.

The CHAIRMAN. I wish to ask a few questions. What do you make the standard of valuation in Minnesota?

Mr. ELMQUIST. In the valuation of properties?

The CHAIRMAN. Yes.

Mr. ELMQUIST. We had made it upon——

The CHAIRMAN. I mean in considering rates.

Mr. ELMQUIST. We made it upon two bases in Minnesota. The one sought to establish the present reproductive value without considering overheads, multiples, or contingencies; the other included them. The work was new and we wanted both of these methods for use in rate cases. The Minnesota rate cases were pending at that time.

The CHAIRMAN. Now, take the reproductive value: The cost of a railroad, I imagine, consists principally of the acquisition of the right of way, the grading of the road — includes cuts and fills — the ties, the rails, the side tracks, stations, equipment of the road, and other things.

Now assuming that you had the quantities of everything determined on a given road, the number of cubic yards of earth removed, the cost of the right of way, the number of tons of rails, the number of ties, and everything of that kind, and you were to consider the question of valuation in 1913, we will say, before the war, in the determination of rates, would you take the reproductive value of that date and the cost of removing the earth, the cost of rails, ties, and equipment, etc., as of that date?

Mr. ELMQUIST. No.

The CHAIRMAN. Would you take that as your standard?

Mr. ELMQUIST. No; what we did in Minnesota is this: We first attempted to find the normal or naked land values, then the quantities of grading, normal unit prices, and the present condition of the units of property.

The CHAIRMAN. Let me go a little further in my question.

Mr. ELMQUIST. I beg your pardon.

The CHAIRMAN. Now, I ask, then, if you were to do that, how would you do to-day if the question of the return to the railroads comes up? Would you estimate that value upon the basis of the cost of removing a cubic yard of earth to-day, which may be twice what it was in 1913; the cost of rails, which is probable double the cost of rails in 1913, the cost of the cars which is three times as great, the cost of locomotives, which, I believe, now cost something like \$60,000, whereas they used to cost \$30,000, etc.—in other words, is the reproductive value to be determined upon the date of every investigation, or if not, upon what date is it to be based? Do I make myself clear?

Mr. ELMQUIST. I do not care to answer your question by yes or no, if I may be permitted. I will say this, however, Assuming that we are valuing the property as of June 30, 1917, we would find the value of the right of way, and possibly measure that by the value of the adjoining property similarly located and circumstanced. That would be done for the purpose of determining the fair normal value of that right of way. Manifestly, whether that can be used as the basis of rate making depends upon the method of its acquisition. That is a legal question. But we would get that. Then we would measure up the yards of earth that had been removed in construction, and we would apply to those various items of construction, bridges, grading, etc., not the prices of June 30, 1917, of labor and material and supplies, but a normal price that has been calculated after the consideration of the prices that have prevailed for a number of years.

Back in our State we use 10-year periods for determining normal prices. It would never do, Senator Newlands, to say that railroad properties to-day should be valued upon the basis of the present cost of material and of supplies, because to do that would be to give to the carriers not millions but billions without the expenditure of a single dollar. So we have got to apply normal prices for the quantities of construction that we find.

The CHAIRMAN. And you ascertain that normal price by taking a period of 10 years?

Mr. ELMQUIST. We do in our State. I understand the Interstate Commerce Commission is generally using a period of five years. These valuations would be as of June 30, 1914.

The CHAIRMAN. Now, then, we will assume that the present high prices are consistently maintained during the next 10 years; that the tremendously increased cost of labor is maintained, and that necessarily will mean an increase of the cost of everything in which labor enters; we will assume that as a means of easing the way toward the payment of the national debts, that silver, for instance, it remonetized and thus the volume of units of metallic money is largely increased, thus diminishing the purchase power of every unit, enabling wheat and other products to pay more of the national and private debts; we will assume that paper money is also issued, in order to meet the requirements of some countries that can not get metallic moneys,

and thus the money volume of the world is enlarged so as to make each unit of that money buy less, and then, at the end of that 10-year period, the commission should inquire into what is the normal value of all these things that enter into railroad construction and equipment. That normal value would be the high values that are the result of the conditions which I have referred to, which are entirely possible. Now, would you regard that as a stable value standard upon which to determine the returns that the railroads are entitled to for their services?

Mr. ELMQUIST. Well, of course, we have not faced that condition yet, but my offhand curbstone opinion is that we could not or should not recognize abnormal cost conditions for the purpose of establishing normal unit prices of fair present value of these properties. While that world-wide war may result in an increased cost of labor and supplies for a few years, yet that is an abnormal situation, and the Government must apply ordinary horse sense in the construction of unit prices, and in doing so they naturally must recognize normal rather than abnormal conditions.

Mr. SIMS. Regardless of how long the abnormal condition may last?

Mr. ELMQUIST. I think so. Suppose you do find the physical value of the railroad property? That is but one of the elements to be considered in a rate case, and even in the purchase of the properties, because you should know the original investment—what the public has put into those properties; you should know its operating conditions, the volume of tonnage, the rates charged its earning power, and competitive conditions, as well as many other things.

The CHAIRMAN. I suppose you realize that 10 years ago, if it should have been stated that the values of to-day are what they are and that the values of labor would be what they are, that a statement of that kind would have been regarded as abnormal, would it not?

Mr. ELMQUIST. Yes, sir.

The CHAIRMAN. Even previously to this war I imagine that if 10 years prior to 1914 the prediction had been made, or in 1913, the prices for labor and commodities would have been what they were, they would have been regarded as abnormal, would they not?

Mr. ELMQUIST. What they are to-day?

The CHAIRMAN. Yes.

Mr. ELMQUIST. Yes, sir.

The CHAIRMAN. Now, we will assume that a railroad is commenced during this abnormal period of 1914 and finished during the period of war, lasting three or four or five years. You would not regard these prices then as abnormal as applied to that railroad, would you?

Mr. ELMQUIST. If a railroad were to be built and completed during an abnormal condition of this kind, of course we would expect it to keep very close account of the original cost of that property. At some future time, if the Government or State were to value that same railroad, at a time when normal conditions had again been restored, it would have to apply to that valuation the same basic principles we apply now; establish the normal unit prices to the quantities that are there, and it might be, Senator Newlands, that the value would be less than the original cost of construction. But it must be remembered that the physical value is not the only factor to be considered in a rate case.

The CHAIRMAN. You would not regard that as a very reliable yardstick, would you?



Mr. ELMQUIST. It would be one kind of evidence to be considered in a proceeding then pending before a tribunal.

Senator CUMMINS. All of which goes to show it is the investment and not the reproductive value that is the real standard.

The CHAIRMAN. That is all.

Mr. ELMQUIST. I thank you very much indeed.

Mr. BRISTOW. Now, Mr. Shaughnessy, of Nevada.

**MR. JOHN F. SHAUGHNESSY.**

The CHAIRMAN. Will you give your name and vocation, please?

Mr. SHAUGHNESSY. John F. Shaughnessy, member of the Nevada Railroad Commission.

The CHAIRMAN. Your residence?

Mr. SHAUGHNESSY. Carson City. Mr. Chairman, I wish to be heard on the long-and-short-haul question, as we understand it in our territory, and also the railway question in general. I will make my opening statement by reading from manuscript, if it is satisfactory.

The CHAIRMAN. Certainly.

Mr. SHAUGHNESSY. In opening, I desire to read Nevada Senate joint and concurrent resolution No. 10, passed by the Nevada Legislature March 13, 1917, unless it be that you gentlemen would not care to hear it and would prefer to have it filed, because copies have heretofore been officially served on the Members of Congress.

The CHAIRMAN. Just briefly state its contents and file it.

Mr. SHAUGHNESSY. Among other things it authorizes the Nevada Railroad Commission to bring the matter of an absolute long-and-short-haul amendment to section 4 of the act to regulate commerce before Congress in such manner as will most effectively support and promote its passage. The resolution reads as follows:

Relative to the amendment to section 4 of the Federal act to regulate commerce, and petitioning the President of the United States and our Representatives in Congress to take such action as will provide in said amendment for an absolute long-and-short-haul provision eliminating the grossly unjust and discriminatory back-haul charges which are assessed against the people of Nevada on both east and west bound transcontinental freight traffic.

Whereas the people of the State of Nevada have suffered, and are suffering, under a most unjust and oppressive discrimination arising from the imposition of a system of infamous differentials or back-haul charges in freight rates on both east and west bound transcontinental freight traffic, assessed against Nevada points through the medium of the transcontinental freight bureau of Chicago, Ill., the membership of which is made up of all interstate railways which participate in said transcontinental business; and

Whereas said differentials, or back-haul charges when defined, amount to the charging of a higher rate upon freight traffic between all Nevada points and all points of origin or destination in eastern defined territory than is charged to or from the longer distant Pacific coast terminal points, or, conversely stated, the charging of a lower rate on said traffic to and from said farther distant Pacific coast terminal points than is charged to and from said shorter distant Nevada points; and

Whereas said discriminatory and preferential system of charging is defended upon the theory that the same is forced and compelled because of the presence of water competition at San Francisco, Los Angeles, and other Pacific coast terminal points or ports of call; and

Whereas with rare exceptions said ocean-going traffic has never amounted to more than 10 per cent of the all-rail transcontinental traffic moving to and from the said Pacific coast terminals; and

Whereas since the slides in the Panama Canal in 1915 and the European war, there has never been any ocean-going competition, nor is there any to-day; and

Whereas, in exemplification of the arbitrary and unjust character of said discrimination imposed against the people of Nevada and other intermountain territory, embracing all of that great country lying between a line running north and south from Canada

to Mexico through Denver, and another north and south line immediately east of Seattle, Portland, San Francisco, Los Angeles, and San Diego, let it be stated that the final carriers reaching said Pacific coast terminals or ports of call absorb said entire differentials or back-haul charges assessed against our people, notwithstanding the self-evident fact that if said water competition were truly forceful and compelling, as alleged, the connecting carriers east of Ogden, El Paso, and St. Paul would be as vitally concerned and insistent upon a participation in said higher charges for said shorter hauls as are the final carriers; and

This means, taking the rate of \$17 per ton on printing paper from New York to San Francisco as fairly representative that the Union Pacific Railroad for its 1,000 mile haul between Omaha and Ogden would, roughly speaking, receive approximately \$6 as its division of said \$17 through rate, and the Southern Pacific Co., the final carrier, for its haul of 785 miles from Ogden to San Francisco, would receive as its division, approximately \$5 per ton; but if the shipment is from New York to Reno the charge is \$22 per ton, and while the division to the Union Pacific is confined to its proportion of the \$17 through rate to San Francisco (namely, \$6 per ton), the Southern Pacific Co. would, in addition to its \$5 division of said through rate to San Francisco, also absorb entirely the long and short haul arbitrary of \$5, the difference between the \$17 and \$22 per ton rates charged respectively to San Francisco and Reno.

Whereas, as further indicating that said water competition is not a compelling consideration, let it be emphasized that there have never been any differentials or back-haul charges assessed against the people of eastern interior territory (Indiana, Ohio, etc.) tributary to the Atlantic coast, on eastbound transcontinental traffic from Pacific coast terminals or interior points tributary thereto. On the contrary, while these arbitraries are not assessed against eastbound traffic to the same extent as on westbound, yet whenever levied against said eastbound traffic, as in the case of wool shipments, the Nevada wool producer pays said back-haul charge and the originating carrier absorbs it; and

Whereas said system of back-haul charging never was, and is not now, predicated upon any principle of justice or fair dealing to the people of said intermountain territory, from which it follows that this theory or basis of rate making will not stand the test of a fair analysis; and

Whereas the effect of said lower charges for the longer haul to and from said more distant points results in building up great industrial and commercial enterprises, and in centralizing and enlarging the population at said Pacific coast terminal points, a substantial proportion of which is at the expense of Nevada and other intermountain States; and

Whereas the effect of said higher charges for the shorter haul to and from said less-distant points results in retarding the growth and development of Nevada's industrial and commercial prosperity, and in restricting the State's growth in population and wealth; and

Whereas the Railroad Commission of Nevada in 1908 brought a proceeding before the Interstate Commerce Commission and did then, and has ever since, been contending in numerous hearings which have been held, that these arbitrary back-haul charges should be entirely removed on westbound transcontinental traffic; and

Whereas when said proceeding was brought in 1908, the average back-haul charge assessed against Nevada points amounted to rates approximately 75 per cent higher than those charges on similar traffic passing through Nevada to San Francisco and Los Angeles; and

Whereas since that time said railroad commission of Nevada has been successful in securing reductions in class and commodity rates from all eastern defined territory, which have had the effect of reducing said differentials or back-haul charges to approximately 25 per cent, as compared with 75 per cent when the cases was started in 1908; and

Whereas the railroad commission has conclusively shown throughout the trial of these cases, that the lower rates charged to said Pacific coast terminals on said westbound traffic was in every way compensatory when considered upon the basis of the cost of moving said traffic in train-load lots without the necessity of breaking bulk in transit during the long haul across the continent; and

Whereas further, the people of Nevada have through their railroad commission contended, and do now contend, that said rates covering the movement of westbound transcontinental traffic to Pacific coast terminals are fully compensatory; the evidence upon this point being conclusive and having never been refuted by the railroads, it follows that the removal of said back-haul charges, and the application of rates no higher to Nevada points than to Pacific coast terminals, would be equally, or in fact more compensatory, than to said further distant points; and

Whereas, the carriers have from the outset, and do now, elect to stand upon the mere question of the presence of water competition at Pacific coast terminals as fully



justifying the charging of said lower preferential rates at said Pacific coast terminals and the higher discriminatory rates at Nevada points, and this without regard to the relationship existing between the revenue received and the cost of rendering said service, or any other consideration and

Whereas said Interstate Commerce Commission has, in Nevada Railroad Commission v. Southern Pacific Company (19 I. C. C., 238), June 22, 1911, stated: "The carriers herein involved have not shown that undue discrimination was not effected by their rate reductions between points in Nevada and points in California, nor have they established that the rates to the Pacific coast cities, if extended by them from eastern points outside the zone of water influence, are not fully compensatory;" and

Whereas the Interstate Commerce Commission has, in its decision of June 5, 1916, in the matter of fourth-section applications Nos. 205, et al., said: "The result of all the evidence offered was to show that there is not at this time any effective water competition between the two coasts, and that there is little likelihood of any material competition by water during the present calendar year, irrespective of the action the commission may take with respect to these petitions. \* \* \* The war and the unparalleled rise in prices of ocean transportation have so changed the situation as to transfer a relation of rates that was justified when established, to one that is now unjustly discriminatory against intermountain points;" and

Whereas notwithstanding the indisputable character of the evidence submitted by Nevada through its railroad commission and said findings above quoted, the Interstate Commerce Commission has thus far failed to remove in their entirety said arbitrary differentials or back-haul charges assessed against Nevada; and

Whereas during the year 1916 the entire question covering said differentials on west-bound freight traffic was, upon further application of the Nevada Railroad Commission for the complete removal of said back-haul charges, again reopened and reheard by the Interstate Commerce Commission and is now submitted for decision; and

Whereas if said back-haul charges are removed by order of said commission the Pacific coast jobbing interests and the carriers who profit by the perpetuation of said system of charging may contest said order in the Federal courts on the ground of informality, irregularity in proceedings, or otherwise, thus resulting in unreasonable and unnecessary delay: Therefore be it

*Resolved by the senate, the assembly concurring.* That the President of the United States and the Senators representing Nevada, and the Nevada Representative in Congress be, and they are hereby, requested to work for the passage and vote for an amendment to section 4 of the act to regulate commerce, providing that it shall be unlawful for any common carrier subject to the provisions of said act to charge or receive any greater compensation in the aggregate for the transportation of freight and passengers for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier within the terms of said act to charge or receive as great compensation for a shorter as for a longer distance; and be it further

*Resolved.* That Congress be and it is hereby memorialized and requested to provide for and pass said amendment; and be it further

*Resolved.* That copies of this resolution be forwarded to each Senator and Representative in Congress; and it is further

*Resolved.* That the Railroad Commission of Nevada be, and it is hereby, authorized to cooperate with the railroad commissions and commercial organizations of all other intermountain States hereinbefore defined, in bringing this matter to the attention of Congress when said amendment is under consideration, in such manner as will most effectively support and promote its passage.

Adopted in senate, March 13, 1917.

MAURICE J. SULLIVAN,  
*President of the Senate.*  
R. A. MCKAY,  
*Secretary of the Senate.*

Adopted in assembly, March 13, 1917.

BEN. D. LUCE,  
*Speaker of the Assembly.*  
H. W. EDWARDS,  
*Chief Clerk of the Assembly.*

Approved March 15, 1917.

EMMET D. BOYLE, *Governor.*



Since the passage of this resolution the Interstate Commerce Commission, on June 30, 1917, after finding that "There is no existing competition necessitated by reason of water service between the two coasts (Atlantic and Pacific) which warrants the rail carriers in maintaining, under present circumstances, lower rates to the Pacific coast than are normal and reasonable or lower than to intermediate points," made an order to become effective October 15, 1917, removing all discrimination against intermountain territory existing in transcontinental rates. In other words, the orders heretofore issued by the commission granting relief to the carriers from the fourth section of the act to regulate commerce were vacated and the carriers ordered to conform their rates to the absolute long and short haul provision of section 4. Thereafter, because of the passage of an amendment to section 15 of the act to regulate commerce, requiring all carriers to secure the approval of the commission before filing any increased rates, and because the carriers had undertaken to comply with said order of June 30 by increasing Pacific coast terminal rates in part, and by reducing intermountain rates in part in order to bring all westbound transcontinental rates to a common level, the commission, on September 28, issued an order suspending the effective date of said order of June 30 indefinitely. All intermountain rate cases, therefore, were reopened and set down for further hearing at New York, November 5; Chicago, November 12; and Portland Oreg., November 20. Further than this we are not advised at the present time.

The fourth section of the act to regulate commerce, as amended June 18, 1910, reads as follows:

That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the aggregate for the transportation of passengers, or like kind of property, for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through route, than the aggregate of the intermediate rates subject to the provisions of this act; but this shall not be construed as authorizing any common carrier within the terms of this act to charge or receive as great compensation for a shorter as for a longer distance: *Provided, however,* That upon application to the Interstate Commerce Commission such common carrier may, in special cases, after investigation, be authorized by the commission to charge less for longer than for shorter distances for the transportation of passengers or property; and the commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section.

Whenever a carrier by railroad shall in competition with a water route or routes, reduce rates on the carriage of any species of freight to or from competitive points, it shall not be permitted to increase such rates unless after hearing by the Interstate Commerce Commission it shall be found that such proposed increase rests upon changes conditions other than the elimination of water competition.

The position of the carriers and the interpretation which they have contended should be placed upon this section, in response to their applications for authority to meet water and rail competition, is clearly and forcefully set forth by the following rules which they formulated and put in evidence before the Interstate Commerce Commission in the rehearing of forth section applications Nos. 205 et al., decided as aforesaid on June 30, 1917:

*Rule 1.* Carriers shall be required to show—

(a) That proposed rates to or from more distant points are necessitated by conditions which have not been created by the applicant carrier, are less than reasonable, and are subnormal.

(b) That such rates yield revenue in excess of the actual cost of handling the traffic upon which they are to apply, thereby adding something to the net revenue and avoiding any increased burden upon intermediate points.

*Rule 2.*—Relief shall be granted the carriers to meet not only actual sea competition, but also potential competition which has been previously manifested, and the facilities for which are still in existence, although dormant at the time of the application or the hearing thereon.

*Rule 3.*—The actual movement of a commodity by water shall determine whether it is susceptible to sea competition.

*Rule 4.*—Rates between Atlantic or Gulf ports to the Pacific ports shall be authorized which are the practical equivalent of the rates by sea, taking into account the relative cost and disparities, i. e., accomplishing a fair equalization of the rates, the rates at intermediate points to be considered separately and without relation to the terminal adjustment.

*Rule 5.*—Rates between interior points of origin and eastern defined territory and Pacific coast terminals shall be whatever shall be determined necessary to enable carriers to obtain and hold a fair proportion of the traffic, taking into consideration—

(a) The rates from principal points of origin via sea routes to destination ports.

(b) The additional charges incident to water transportation.

(c) A fair allowance for the intangible difference, if any, due to superior service.

(d) Competition of carriers from other points of origin, the rates at intermediate points to be considered separately without relation to the terminal adjustment.

*Rule 6.*—When the carriers shall have fully supported their fourth section applications as contemplated by the preceding rules, the commission shall exercise the authority delegated by the fourth section to authorize the carriers to charge less for longer than for shorter distances, and from time to time prescribe the extent to which such common carrier may be relieved, by considering what rates in fact are justified and fixing in the determination of all applications the specific rates which shall be authorized to meet water competition without affecting rates at intermediate points, except that the carriers shall not be permitted to exceed the combination of the authorized rate to the port plus full local rate thence to interior destination.

Except as to rule 2, and subject to certain qualifications as to the others, the Interstate Commerce Commission gives approval to these rules in the following language:

Paragraphs (A) and (B) of rule 1 are in accord with principles stated and applied by us in "Fourth Section Violations in the Southeast" (30 I. C. C. 153).

Rule 2 is of more doubtful character as a principle of action. A water service which for one cause or another has been abandoned may have been effective at some period in the past in reducing rail rates to a level lower than they otherwise would have been, but there may not be at present any likelihood of the restoration of that service, although some of the facilities for the service are still in existence. The maintenance of lower rates under these circumstances to the more distant than to intermediate points may not be justified, although the lower rate when established was necessitated by the competition then existing and the higher rates to intermediate points are not unreasonable. There are so many varying circumstances which apply to situations of this kind that we are unable to subscribe to rule 2 as a fixed rule of action.

We can see no reason to object to rule 3 or to rule 4, except in so far as rule 4 requires the separate consideration of intermediate and terminal rates. The business of a carrier can not usually be so separated into two parts. While it is obviously unfair to adopt a rate made to a competitive point, reduced below a reasonable basis by necessity, as the standard by which to measure rates to points where such necessity does not exist, it is not unfair to regard both rates to intermediate and depressed rate points together as parts of one system of rates.

A similar qualification, to wit, that rates to and from intermediate points may be reasonably adjusted as between these points and water competitive points should be applied to paragraph (d) of rule 5, and the concluding phrases of rule 6; in other words, we construe it to be our duty in acting under that clause of the fourth section which permits us from time to time to prescribe the extent to which such common carriers may be relieved, to weigh the claims made as to the necessity for the lower rate at the more distant point and to determine whether the rates so necessitated is in fact substantially lower than is reasonable under the transportation condition existing. The rates to intermediate points must also be scanned at the same time to determine whether or not they are higher than the rates on the same or other similarly situated lines for like distances. It will not be possible always to reach an adjustment as to the exact measure of the rates that should be applied to interme-



diates points, but it is possible to put such reasonable limitations upon these rates that, considering the terminal and intermediate rates together, glaring discrepancies will be avoided and all apparently undue discriminations will be prevented. This has been our conception of our power and duty under the law, and we have endeavored to act accordingly in our previous reports concerning these transcontinental rates in so far as the records furnished a basis. (*Nevada Railroad Commission v. S. P. Co.*, 21 I. C. C. 329; *City of Spokane v. N. P. Co.*, 21 I. C. C., 400; *Commodity rates to Pacific Terminals*, supra; *Rates on Asphaltum, Barley, Beans, and Canned Goods*, 33 I. C. C. 480.)

Here, gentlemen, the commission has validated the carriers' proposals to meet water or rail competition at out-of-pocket cost rates to and from the long-haul competition points, and that the actual movement of any commodity by water, without regard to the volume of its movement which may be greater at interior points than at water points, shall authorize the carriers to establish rates the practical equivalent of the water rates without at the same time affecting the rates at the short-haul points; also while the commission states that the higher intermediate rates will be "scanned" yet it will not be unfair to regard both the said long and short haul charges as one system of rates. If I understand the matter correctly, this affords complete relief from the operation of the law whenever and wherever water competition is found.

Also, it means the complete control by the rail carriers of water competition on the one hand, and on the other placing the cost of its control or elimination upon the short-haul shippers and consumers. Likewise, that the perpetuation of long and short haul rates occasioned by long-line carriers meeting the short-line rates at large industrial and commercial centers over circuitous routes, will be maintained and made possible at the expense of the short-haul shippers and consumers.

Now the evidence offered in the Intermountain Rate Cases on behalf of the shippers and Pacific and Atlantic coast commercial and industrial interests, supported the contentions of the carriers, except that certain witnesses expressed opinions that some of the Pacific coast terminal rates were reasonable in and of themselves, and should not be increased, but both Pacific and Atlantic coast interests opposed any substantial increase in the rates to the Pacific coast. They urge that rates to the Pacific coast ports should be maintained with a certain degree of stability, in order that they may be able to forecast the future of business conditions, and that the basis of the rates so maintained may rest upon the usual normal conditions affecting these rates, and not upon abnormal and extraordinary conditions created by the war. Practically all of these shippers urged the maintenance of blanket rates from eastern defined territory to the Pacific coast, upon the ground that the parity of rates heretofore maintained from all the great territory lying east of the Missouri River to the Atlantic coast, has afforded manufacturers in this territory equal opportunity to market their products on the Pacific coast, and has also afforded the coast cities the benefit of a wide market and a competition in prices resulting therefrom.

At this point it is interesting to note that the importance of the market and the development of the great intermountain inland empire was entirely overlooked in the plea of these interests for a wider market and competition in prices. In this connection let it



be said that the great intermountain and the central and eastern California, Washington, and Oregon country, comprising all that area between a line drawn north and south through Denver from the Canadian to the Mexican line, and one a few miles inland from Pacific coast ports, is now known as back-haul territory. In 1910 this territory had a population of 5,361,590, compared with which the Pacific coast terminals had a combined population of 1,898,638. Unfortunately, there are no official figures available as to the total westbound rail tonnage reaching this back-haul territory and the Pacific coast terminals, but I heard it estimated by a prominent traffic manager in Washington early in 1916 that the total rail tonnage reaching said Pacific coast terminals is not less than 7,000,000 tons a year; compared with which the average annual water tonnage from Atlantic coast to Pacific coast ports and Hawaii for the five-year period ending in June, 1916, was 492,000 tons, or 7.03 per cent of the all-rail tonnage. Included in this average was the abnormally large tonnage of 951,000 tons which moved by water the year following the opening of the Panama Canal, in 1914.

Although the eastbound ocean-going traffic from the Pacific coast and Hawaii to the Atlantic coast prior to the war was heavier than the westbound traffic, no attempt has been made to apply long-and-short-haul carload rates to the consumers of Indiana, Ohio, Pennsylvania, New York, or other interior States compared with Atlantic coast terminal points on eastbound transcontinental rail traffic. On the contrary, practically all products of the soil, forest, and mines are moved east on blanket rates, beginning at Denver and extending clear across the country to and including the Atlantic coast terminals. This is explained by the carriers, stating they wished to favor the movement of products of the soil to all eastern territory at practically uniform rates in order to afford the widest market possible therefor.

On wool traffic, however, moving clear across the country to Boston, Mass., long-and-short-haul rates are assessed against the Nevada wool producer as follows: The rate from San Francisco to Boston is \$20 per ton, whereas from Winnemucca, Nev., it is \$38.80 per ton.

Now, surely the foregoing ratio of 7.03 per cent of the westbound transcontinental traffic can not be said to be an abnormal or unreasonable proportion of the traffic to be allotted to the water carriers. Also can it be fairly said that this competition was so forceful as to justify making the entire country a "special case?" and in pursuance thereof the maintenance of long-and-short-haul rates to intermountain points from all territory east of the Missouri River. In this connection let me emphasize that since early in 1915 the American-Hawaiian Steamship Co. and the Luckenbach Steamship Co. have, on two different occasions, appeared before the Interstate Commerce Commission in the Intermountain Rate cases and protested against the carriers' applications to continue the present low rates to Pacific coast terminals under the guise of meeting water competition. In this connection their position, if I understand it correctly, has been and is that there is only a relative amount of water competitive traffic which they can regularly secure, and that therefore it is their desire that the relationship of rates maintained by the carriers and the water lines in the past might reasonably be increased to a somewhat higher level.

In leaving the domestic service to enter the European and South American trade, at rates from 3 to 10 times higher than the domestic rates, the traffic managers of said American-Hawaiian and Luckenbach Steamship companies notified the Interstate Commerce Commission that they would ultimately return to the coast-to-coast trade, but that the period within which they would return would depend largely upon the compensatory character of the rates that they might be able to secure in competition with the transcontinental rail carriers.

At the present time, therefore, there is no water competition between the two coasts, nor has there been any companies operating a regular service since early in 1916. In this connection the testimony of the traffic managers of the American-Hawaiian and Luckenbach Steamship companies was to the effect that after the war closed there would be sufficient business in furnishing materials and supplies for the rehabilitation of Europe, to keep all boats regularly and profitably employed for from three to five years. In view of the demand for ships for use in the prosecution of the war, and the world-wide shortage of ocean-going steamships due to the exceedingly large number which have been and will continue to be destroyed throughout the war, the aforesaid estimate of from three to five years profitable business in the European trade after the war closes, seems to be entirely conservative.

Commenting on the long-and-short-haul system of rate making as applied to the intermountain territory the Interstate Commerce Commission, in its decision of June 30, 1917, said:

We are of the opinion that the best interests of the public, of the transcontinental carriers, and these intermountain cities in particular, will be served by a policy that permits the transcontinental carriers to share with the water lines in the traffic to and from Pacific coast ports. \* \* \* The shippers at the coast are thereby given the benefit of competing rates and competing markets of supply. The railroads are enabled to fill up their trains with traffic, which, though not highly profitable, yields a revenue greater than the "out-of-pocket" cost of securing and handling the traffic, thereby adding to the net revenue of the carriers, and to that extent lightening the transportation burdens borne by other localities.

While such a policy is doubtless beneficial to the railroads in eliminating water competition, and to the Pacific coast industrial and commercial interests in the broadening of purchasing markets and prices and distributing territory, the fact that it is not beneficial to the intermountain territory, is strongly evidenced in the following paragraph of the commission's finding:

It is perfectly clear that the Pacific coast cities have always paid lower transportation rates than they would have paid were it not for the facilities they have enjoyed for bringing manufactured articles from eastern manufacturing districts and for sending east the products of the coast States by water. It is also clear that the intermountain section of the country has paid and now pays rates for the transportation of these manufactured articles which are higher proportionately than is paid by the coast cities, and probably higher than it would be necessary to maintain, if the rates to the coast cities could be maintained at a level more nearly proportionate to the service given.

We ask why should not the shippers and consumers of the great intermountain territory be accorded the equal benefit of the competing markets and prices of all eastern defined territory at rates that are uniform instead of the high short-haul rates referred to by the commission? This, gentlemen, has been our plea before the Interstate Commerce Commission for the past 10 years, and we now

renew it before this honorable committee with the request that you have enacted legislation which will forever remove and prevent rate adjustments of this nature.

If, as some would have us believe, the Pacific coast terminals enjoy a natural advantage by reason of their location upon the sea, why do we find the industrial and commercial agencies thereof solidly lined up behind the transcontinental carriers in the fixing of rates which have the effect of putting the ocean carriers out of business?

From my experience in the intermountain rate cases, I am unable to escape the conclusion that the Pacific coast and Atlantic coast industrial and commercial interests feel that in so far as possible the great interior section of the country is legitimate prey for exploitation, and that this result, which amounts to the centralization of the industrial and commercial activities and population of the respective seaboard lines, can best be accomplished by cooperation with the railroads in the promotion of long-haul traffic. In fact, double hauls on the raw products in and the finished products out from Atlantic coast territory and similarly long cross-country hauls to Pacific coast ports for storage and back-haul jobbing inland from Pacific coast territory.

Therefore, in practically all Nation-wide rate inquiries during the past these communities have been found lined up on the side of the railroads. Perhaps not always openly, but understandingly. For these reasons the great producing and yet largely undeveloped interior country which makes possible these densely populated centers will doubtless continue in the future as in the past to bear the burden of the opposition of these sectional interests to the establishment of nondiscriminatory rates to interior points. Also the burden of their support to carrier's applications for rate increases from time to time, which relatively will bear much more heavily on the higher rates within the interior country than upon said lower long-haul rates in which these communities are chiefly concerned.

#### THE SOUTHEASTERN LONG-AND-SHORT-HAUL CASES.

Illustrating what is said above, and in further support of our contention for an absolute long-and-short-haul provision, and as evidence that the present fourth-section provision, as understood and administered, is in contravention of a wise national policy, it will be necessary to review at some length the "Southeastern cases" (30 I. C. C., 153), decided April 13, 1914, and the "Shreveport case" (23 I. C. C., 31, and 234 U. S., 342), decided June 8, 1914. Around these cases is centered the railroad's fight at the present time for the centralization of all power of control and regulation of railroads in the Interstate Commerce Commission, to the exclusion of the various State constitutions, legislatures, commissions, and courts.

At the time of its investigation in the Southeastern cases during 1912 the commission, among other things, found that "there were no regular boat lines in operation from Ohio and Mississippi River points to New Orleans," and "that there had not been any for a number of years prior thereto, although there was testimony to show that each year during high water a considerable tonnage of coal, iron, and steel articles came down the Ohio and Mississippi Rivers from Pittsburgh to New Orleans."



Formerly, from 1815, subject to interruptions by the Civil War between the years 1861-1865, regular water transportation service was rendered on the Ohio and Mississippi Rivers until about 1898. The decline in the water traffic on the Mississippi River between St. Louis and New Orleans, is illustrated by the table at page 227 of the opinion, which shows that the water tonnage in 1889 was 844,000 tons, whereas in 1908 it had fallen to 88,500 tons. In the maintenance of lower rates from Chicago, Cairo, Cincinnati, Louisville, and St. Louis to Vicksburg, Natchez, Baton Rouge, New Orleans, Mobile, Pensacola, and Tampa, than to intermediate rail point, the commission justified this action in the following language:

It is evident that the rates and facilities afforded by the rail lines have had the effect of eventually attracting to these lines nearly all of the long distance traffic between Ohio River points, upper Mississippi River points, and Missouri River points on the one hand, and New Orleans, on the other. There is no reason for believing that the rates to New Orleans when established by the rail lines in 1887 and since maintained were not necessitated by an active compelling water competition. Without doubt, the changing demands of commerce, the increased facilities of the railroads, their better organization and regularity of service, have been influential in winning for them not only a share of the traffic, but nearly all of the traffic. *The water competition, once actual and compelling*, is still, however, potential, and it is most earnestly contended by the petitioners herein that any substantial increase in the rates to New Orleans will have the effect of reestablishing water competition, with the subsequent loss of traffic and revenue to the rail lines. It is represented that having secured this traffic through years of struggle, there is nothing in the fourth section of the act to regulate commerce, as amended in 1910, that puts upon the rail carriers an obligation to establish rates which will restore to the boat lines the traffic they have lost.

Here, gentlemen, is a situation throughout the Southern States, that is closely analogous to the intermountain rate condition. The same system of back-haul charges or arbitraries are added to the through rates from New Orleans and the aforesaid Mississippi River points north of New Orleans, and Mobile, Pensacola, and Tampa, to make the higher short-haul rates at intermediate points within the Southern States, that have in the past been added to the Pacific coast terminal rates, to make rates at intermountain points throughout the intermountain territory. Here we have the statement of the Interstate Commerce Commission that it will perpetuate the discrimination against intermediate points in the Southern States, but not because of real compelling competition. Quite the contrary, The river transportation lines had long since found the railway competition to severe and retired; therefore the long and short haul rates were justified on the potential competition due to the existence of the Ohio and Mississippi Rivers, and the apprehension that if the rates were readjusted, the water carriers might reenter the service and regain some of the business which the rail carriers had taken away from them by the maintenance of the discriminatory long and short haul rates in question. This case is illustrative of others that might be cited from the reported decisions of the Interstate Commerce Commission where effective water competition has been eliminated, but because of potential competition due to the existence and the availability of rivers, lakes, and oceans, discriminatory long and short haul rates have, upon application of the carriers for fourth section relief, been treated by the commission as "special cases," and their continued application authorized. Thus, for many years, in fact, since the Interstate Commerce Commission was created

in 1887, we find a legislative branch of our Government, and also the courts, in construing the policy outlined by Congress in the act to regulate commerce, validating rate schemes designed in the interest of the highest railway development. Unfortunately, however, the policy authorized and administered under the fourth section of the act to regulate commerce, since its inception in 1887, has been at the sacrifice of the water carriers and wise national waterway development, while at the same time placing the cost of maintaining artificial rate adjustments, designed in most cases for the ultimate elimination of water competition, upon the shippers and consumers at interior points, removed from our natural waterways.

#### THE TEXAS SITUATION.

Now, let us observe the far-reaching effect of this unwise national policy by reviewing the Texas situation. The railway regulations enforced by the Texas Railroad Commission since its creation in 1891 are more bitterly complained of by the carriers than any others throughout the country. However, as will clearly appear, the underlying and justifying reason for the exercise of this State's sovereign power for the protection of its people and commerce was made imperative because of the railroad's long-continued practice of maintaining long and short haul rates against Texas on interstate traffic.

In connection with the Southeastern cases it is to be said that at Shreveport, La., because of its location on the Red River, about 20 miles east of the Texas line, and because of her proximity to the Mississippi River through Vicksburg, Miss., the preferential benefits of long and short haul rates on interstate traffic from all northern and eastern defined territory, formerly granted by the carriers, were not disturbed. Thus, Shreveport enjoys carload rates from all northern and eastern defined territory, much lower in fact than the rates from such territories to points in Texas for equivalent or shorter distances by direct rail lines which do not touch Shreveport at all.

Manifestly, some action was necessary to offset this differential. Otherwise it would give Shreveport the advantage of warehousing northern and eastern freight which could thereafter be shipped to various points in Texas at rates less than it would be possible for commercial jobbers at Dallas, Fort Worth, and other Texas points to bring freight in and warehouse it, and thereafter reship to interior Texas points at local rates in competition with Shreveport.

Facing this condition of affairs, the Railroad Commission of Texas in the early nineties prescribed its Texas freight classification and a schedule of local class and commodity rates which offset the unnatural advantages against Texas jobbers and shippers due to the aforesaid preferential long and short haul basing rates applied at Shreveport on all traffic inbound to Texas from northern and eastern territory. For approximately 20 years the carriers published and observed these Texas rates.

On March 8, 1911, the Railroad Commission of Louisiana, on behalf of various merchants, manufacturers, jobbers, and others residing at Shreveport, brought a proceeding before the Interstate Commerce Commission complaining that rates between Shreveport and Texas points were unjust, unreasonable, and discriminatory

when compared with Texas rates. The Railroad Commission of Texas was not made a party to this proceeding. On March 11, 1912, the Interstate Commerce Commission made its decision reducing the class rates from Shreveport to specified points in Texas east of Dallas and north of Houston to the level of the class rates prescribed by the Texas Commission. In addition thereto the lines serving this territory were ordered to cease and desist from charging higher rates upon any commodity from Shreveport into Texas, than were contemporaneously charged for the carriage of such commodities from Dallas and Houston toward Shreveport for an equal distance. This decision was appealed by the carriers to the then existing Commerce Court, where, on April 29, 1913, the order was upheld. And on appeal by the same carriers to the Supreme Court of the United States, the decisions of the Interstate Commerce Commission and the Commerce Court were upheld by the Supreme Court on June 8, 1914. (*Houston East and West Texas Ry. v. United States*, 234 U. S., 342.) Following the Supreme Court decision, the carriers, on August 1, 1914, complied with this decision by putting into effect the "Western freight classification" in lieu of the "Texas classification" and also reduced the class rates as ordered; but, in removing the discrimination in commodity rates, the order was complied with by increasing the rates within the State of Texas to the level of the rates out of Shreveport. This had the effect of very substantially increasing the commodity rates covering the movement of traffic wholly within Texas from Dallas east and Houston north.

On or about this time a supplemental petition was filed with the Interstate Commerce Commission by the Railroad Commission of Louisiana, requesting that the same rate structure as prescribed in the aforesaid order be applied to all carriers, in the transportation of all carload and less than carload traffic in all territory lying east of a line drawn through Gainesville, Fort Worth, Waco, and thence along the Brazos River to the Gulf of Mexico. Said rates to apply to traffic whether moving wholly within the State of Texas or from or to Shreveport to or from such Texas points.

On June 17, 1915, the Interstate Commerce Commission decided this supplemental complaint by extending the territory to the line drawn through Texas as above requested and prescribing reduced class rates between Shreveport and all points within this substantially enlarged territory on a basis the equivalent of the Texas Commission class rate schedule up to a distance of 245 miles, and beyond on the basis of the Texas-Oklahoma scale to 400 miles. Likewise the same order as to commodity rates was made as in the former decision. The carriers filed tariffs in compliance with the order to take effect on September 15, 1915. These tariffs were suspended, subject to further hearing because of complaint on behalf of various cities, commercial organizations, and industries of Texas.

On December 17, 1915, the whole case was reopened, at which time the Shreveport interests filed a supplemental petition requesting that the same rate structure previously ordered and heretofore confined to eastern Texas be extended so as to cover the entire State of Texas. On July 7, 1916, the prayer of the complainants, practically in its entirety, was granted by the Interstate Commerce Commission, this being its third order. The commission reaffirmed its findings in the former cases, but extended its rate adjustment to the entire State of Texas.



In pursuance of this order the carriers filed with the Interstate Commerce Commission, Texas Lines Tariff 2-B, to take effect November 1 and to apply to the whole State of Texas. This tariff substantially followed the Texas class rates, but increased the commodity rates to the level of the Shreveport rates; also the Western classification was substituted for the Texas classification. Following this action an injunction was secured by the carriers before one of the district Federal courts restraining the Texas Commission from undertaking to interfere with the carriers' tariffs filed in pursuance of the order of the Interstate Commerce Commission in said Shreveport cases.

Regarding the effect of the action taken in these cases by the Interstate Commerce Commission, the Texas Commission, in its report for 1916 at page 7-9, says:

Since November 1, 1916, when said Texas Lines Tariff 2-B, issued in alleged pursuance of the Shreveport order, took effect, this commission has, by reason of an injunction, been prevented from prosecuting the carriers that have ignored the rates of this commission on intrastate traffic, and have without this commission's authority published and applied rates on freight at variance with and much in excess of those prescribed by this commission. Although being handicapped by said injunction, which applies to Texas shippers as well as against this commission, such shippers, assisted by this commission, have used all their available means to relieve themselves of this unreasonable and unlawful burden in the way of freight rate increases. Prior to the taking effect of said Texas Lines Tariff 2-B, the Interstate Commerce Commission was asked to suspend the same on grounds and for the reasons fully and extensively set out to it. This, however, it declined to do, except as to some three commodities—cord wood, live stock, and lignite—but, in declining to suspend the tariff as a whole, that commission did set a date, to wit, December 6, 1916, when it would hear protestants on the proposition of reopening the Shreveport Case. At this hearing the protestants appeared and again the Interstate Commerce Commission was asked to suspend the tariff and reopen the case, and in pursuance of these requests, that commission has reopened the case and will further hear the same; but it has again declined to, in the meantime, suspend said tariff 2-B. Thus, it appears, the shippers of Texas will be compelled to carry the burden of these unlawful and abnormally increased rates for an indefinite period.

Since this time (December 6, 1916) the cases have been reopened, reheard, and are now submitted to the Interstate Commerce Commission for further decision of the matters in controversy.

It will be interesting to note the reasons given by the Railroad Commission of Texas as to why it prescribed and maintained a schedule of rates, both class and commodity, which were substantially lower than those maintained by the carriers from Shreveport to interior Texas points. In its annual reports for 1895-6 the Texas Railroad Commission said:

To Texas as a whole it is of the most vital concern that there should be within her limits at proper places jobbing and manufacturing establishments. Besides adding to the citizenship of the State a desirable population and furnishing employment to persons already in our midst, and enhancing the taxable values of the State, and, as a consequence, under wisely administered government, aiding in ultimately reducing the rate of taxation, and besides the home market they afford to the tiller of the soil and other producers, including manufacturers, for their products, if men in Texas having the capital to engage in a wholesale business or in a manufacturing enterprise, for the success of which natural conditions are favorable, they have as much right to invest their means in such business or enterprise as a man in Illinois or Missouri has to embark in such business or enterprise in his State. Some of the Texas lines of railway constituting parts of interstate systems of railway, interested in long hauls, appear to be hostile to a policy which would foster Texas jobbing and manufacturing interests, while other lines manifestly favor such a policy. Outside cities bring to bear every pressure they can to coerce the Texas lines into a course favorable to their interests and adverse to the interests of Texas cities with respect to jobbing

and manufacturing \* \* \*. This commission has always had in mind the securing of relatively just State and interstate rates, with a view of enabling Texas merchants and manufacturers to do business in competition with outsiders.

This commission has often stated to the freight and traffic managers in their meetings with it that if the railroad companies engaged in interstate shipments would make and maintain rates which would be fairly compensatory to them on such shipments this commission would do all in its power, by its rates, to secure them reasonable revenue on their railroad investments in this State, and we now repeat that statement, but this suggestion contemplates good faith on both sides in the making and maintenance of rates.

And again the commission said in its annual report for the year 1896:

The commission did not feel disposed when it gave notice in the form stated, nor has it ever been inclined to deny to the railroad companies such rates as are reasonably compensatory, even though to do so would necessitate an increase in rates, yet as a condition precedent to anything like a general increase in said rates the commission was and is determined that the railroad companies shall show that they receive reasonable compensation for transportation by them of interstate freights in order that it may be seen by the commission that they are not sacrificing their revenues on interstate hauls and seeking to recoup their losses against the people of Texas. \* \* \* In making the demand there was no injustice to the railroads, for, viewed merely as roads operating in the State, it is to their interest to favor our policy of bringing goods from abroad into Texas cities in carload quantities and in distributing them from a jobbing house in such cities in less than carload quantities among the retailers. The freight charges they receive on local less than carload shipments within the State added to what they receive in the division of their through rates on carload shipments to the Texas jobber usually amount to more than they receive in the division of their rates on less-than-carload shipments from the jobber outside the State to a retailer in the State; and it can be shown to be to their advantage to pursue a policy favorable to the development of manufacturing in Texas. While by pursuing, along the lines indicated, a course favorable to the upbuilding of Texas jobbing and manufacturing enterprises the interests of Texas roads considered as such would be subserved, yet, constituting, as some of the Texas roads do, parts of interstate systems, the interests of the systems rather than the interests of the Texas lines are too often regarded. Here lies the main difficulty in our opinion in securing a just arrangement of interstate rates.

These statements were made a part of the record in the Shreveport case before the Interstate Commerce Commission, and there was also introduced the following letter from Hon. Allison Mayfield, chairman of the Texas Railroad Commission, to the secretary of the Progressive League of Marshall, Tex.

AUSTIN, TEX., *September 12, 1911.*

DEAR SIR: We beg to acknowledge the receipt of your letter of the 9th instant, with which you inclose letter from Mr. A. T. Kahn, of Shreveport, to Mr. W. L. Martin, of this city, with reference to securing a reduction of rates on classes from Shreveport, and we note your request for a statement from this commission in order that you may properly understand the matter involved, and in reply you are advised: For the rates referred to from Shreveport to Texas points to be reduced, would in the opinion of this commission, be very much against the interest of the Texas jobber, whom it has been the endeavor of this commission to protect, and by way of explanation we will state: Shreveport enjoys now, and has for some years past, very low carload rates from northern and eastern points, much lower than the carload rates on the same commodities from the same points to Texas jobbing points. These carload rates in, plus their (Shreveport) local rate out, to Texas points gave them, of course, an advantage over the Texas jobber, and to offset this the (Texas) commission adopted its adjustment of rates. For the local rates to be now reduced from Shreveport to Texas points would tend to counteract the effect of this commission's action, and to place the Texas jobber at the same disadvantage under which he previously labored.

Here we have an official statement regarding the circumstances surrounding the enforcement of the long-and-short-haul discrimination against Texas by the interstate railway systems, including reference to the coercive methods employed by industrial and commercial interests outside the State. Much has been said about the coercion which

the railways have suffered under Texas railway regulation, but not one word has ever been heard regarding the pressure exerted by the nonresident and nontaxpaying industrial and commercial interests, which would, under discriminatory rates, monopolize the commerce of Texas and retard its growth and development. This result, however, was avoided in Texas by its railroad commission reducing the local rates and thus offsetting the discrimination. It is also interesting to note that the Texas commission has always been ready to participate with the carriers in the working out of a just and reasonable system of rates, even though this might entail increasing the local Texas rates.

The Interstate Commerce Commission has justified the maintenance of these long-and-short-haul rates between northern and eastern defined territory and Shreveport in the following language:

If Shreveport is so situated by reason of her position on the Red River and her proximity to the Mississippi that the railroads serving her are justified in extending to her inbound rates which are lower than those extended to Dallas and other cities in Texas, this is her advantage, of which she may take full benefit. The carriers may not say that they will absorb in outbound rates such advantages as Shreveport has upon her inbound rates. Railroads may assume that they have the right to control the destinies of cities and limit their jobbing territory or extend it as they see fit, but this is not a policy consistent with the theory of governmental regulation. If the inbound rates to Shreveport are compelled by natural conditions, the discrimination in her favor is not undue. If, however, this is an artificial relation established by the railroads, it is unlawful. If natural, the railroads certainly should not destroy it. If artificial, it should not have been established, and should now be removed. The act to regulate commerce is the outgrowth of a popular conviction that the railroads, when unhampered by restrictive law, attempted successfully to prescribe and define the channels of commerce in such a way as to favor certain localities, industries, and individuals. We do not here pass upon the relation between the rates into Shreveport from the north and east and those extended by the carriers to Texas points. If Texas communities have just reason to complain of this relationship which has been created by the carriers, hearing will be given them upon this matter and the full power of the commission exercised to correct any wrong which may exist in this situation. (Shreveport Case, 23 I. C. C.)

Pursuant to the foregoing invitation extended by the Interstate Commerce Commission, the Dallas Chamber of Commerce, on January 2, 1915, filed a petition with the commission in which it put in issue 87 representative carload commodity rates covering the movement of traffic from St. Louis and Kansas City to Dallas and Fort Worth and other northeastern Texas points, alleging that these commodity rates to said Texas points were approximately 50 per cent in excess of the rates on the same commodities from the said northern points to Shreveport, La. The main issue was the long-and-short-haul system of rate making and the commission was petitioned to remove this 50 per cent differential in favor of Shreveport.

The northeastern section of Texas is exceedingly prosperous and comprises an area of 200 miles east and west by 100 miles north and south, and has within its borders two of the largest cities of Texas, viz. Dallas and Fort Worth.

The combined railway mileage from St. Louis and Kansas City to Dallas through Shreveport is 754 miles, compared with which the direct-line mileage to Dallas and Fort Worth is approximately 690 miles from St. Louis and 510 miles from Kansas City. The average short-line mileage from St. Louis to this section is 650 miles; from Kansas City about 550 miles. On the other hand, the short-line



mileage from St. Louis and Kansas City to Shreveport is 562 miles, being practically the same from both points. Shreveport is 189 miles east of Dallas, but is not intermediate to Dallas on the direct railway lines from St. Louis and Kansas City to Dallas and other northeastern Texas points. On the other hand, it is 172 miles west of Vicksburg on the Mississippi River and 188 miles west of Natchez, 227 miles northwest of Baton Rouge, and 304 miles northwest of New Orleans. Class rates from all of these Mississippi River points to Shreveport range from 40 to 50 per cent lower than the class rates prescribed by the Railroad Commission of Texas, and also those prescribed by the Interstate Commerce Commission for outbound traffic from Shreveport into Texas.

In deciding this case (*Dallas Chamber of Commerce v. Atchison, Topeka & Santa Fe Railway*, 40 I. C. C., 619) the commission reaffirmed its decision in the *Southeastern Cases*, 30 I. C. C., the *Shreveport Case*, 23 I. C. C., and also the *Tecarkana Case*, 28 I. C. C., 569, to the effect that the long and short haul rates maintained by the carriers to Shreveport had formerly been compelled by water competition, and in lieu of granting the petition of Dallas for the removal of the discrimination in favor of Shreveport, reduced the rates from St. Louis-Kansas City to northeastern Texas points \$1 per ton.

The effect of this adjustment, and the rates as they stand to-day, is illustrated by taking the carload rate covering the movement of printing paper from St. Louis to Dallas and Fort Worth. The rate to the publishers at Dallas and Fort Worth was \$12 per ton, which by said order was reduced to \$11 per ton, but the long-and-short-haul rate to the Shreveport publishers was not disturbed, and was allowed to remain at \$6.60 per ton. This comparison exhibits, not actually but in a general way, the disparity in the through rates covering the 87 Texas commodities referred to and forcefully exemplifies why the Texas Commission found it necessary to offset this discrimination by a reduction in the local rates. While the disparity in through rates will vary in other territories, the general effect of the long-and-short-haul rates as applied throughout all of the Southern and Intermountain States is the same. For example, as before stated, the publishers at San Francisco are accorded a rate of \$17 per ton on printing paper from New York, while the Nevada publishers, who are situated on the main line intermediate to San Francisco, are required to pay \$22 per ton, or a differential of approximately 30 per cent. The haul to Reno is 240 miles shorter than to San Francisco, to Winnemucca 415 miles, and to Elko 550 miles.

The CHAIRMAN. Mr. Shaughnessy, I think we will take a recess now until 10 o'clock on Monday morning.

(Thereupon, at 12.45 o'clock p. m., the committee adjourned until Monday, December 17, 1917, at 10 o'clock a. m.)



# INTERSTATE AND FOREIGN TRANSPORTATION.

MONDAY, DECEMBER 17, 1917.

CONGRESS OF THE UNITED STATES,  
JOINT COMMITTEE ON INTERSTATE COMMERCE,  
*Washington, D. C.*

The joint committee met at 10 o'clock a. m., pursuant to adjournment, Senator Francis G. Newlands, presiding.

## STATEMENT OF MR. J. F. SHAUGHNESSY—Resumed.

The CHAIRMAN. Mr. Shaughnessy, are you ready to proceed?

Mr. SHAUGHNESSY. Yes, sir. When we closed on Saturday I was dealing with the Texas situation. I will continue from that point.

The effect of the intervention of the act to regulate commerce in the Shreveport cases has, as Chairman Mayfield predicted in his letter to the secretary of the Progressive League, of Marshall, resulted in counteracting the orders of the Texas Commission equalizing the Shreveport discrimination "and placing the Texas jobber at the same disadvantage under which he previously labored." Unless Congress grants relief the inevitable result must be to build up the border cities on and tributary to the Mississippi River and the Gulf of Mexico at the expense of the shippers and consumers of Texas by the maintenance of these artificial long-and-short-haul rates.

In other words, the development of Texas, with its area of 265,800 square miles and population of 4,500,000, will be retarded, and its commercial and industrial business will be largely handed over to Louisiana, with its area of 48,500 square miles and population of 1,800,000 people.

As indicative of fact that both Texas and its railways have prospered under the Texas Commission-made rates, it may be said that the population has grown from 2,235,000 in 1890 to 4,500,000 in 1916; that the railway gross earnings have grown from \$35,000,000 in 1890 to \$113,000,000 in 1916; that the railway mileage has grown from 8,650 to 15,600 miles, an increase of 80 per cent; that the revenue freight tonnage has grown from 10,944,000 to 58,482,000 tons, and that the average revenue per freight-train mile has grown from \$1.49 in 1890 to \$2.92 in 1916. Taking the year 1913 as a fairly normal period, the average revenue per freight-train mile was \$2.73 for all classes of carriers in Texas, compared with which the freight-train mile earnings for the southern district, embracing only roads of the first class, those having earnings in excess of \$1,000,000, was \$2.65.

These tests show that both Texas and its carriers have prospered and that the Texas lines have enjoyed a remarkable increase in traffic and fine gross earnings under the regulation of the Texas Commission during the time it equalized the Texas rates and offset the Shreveport discriminatory long-and-short-haul rates. May it be fairly said that Texas should not have exercised its sovereign power in behalf of the accomplishments herein referred to? In other words,



while providing for equality and without burdening the movement of interstate commerce to or from its original sources of supply, could the State have done anything less if it was to protect its people and commerce from exploitation, and at the same time insure a steady growth in population, wealth, and State development?

#### RECENT REPORTS ON WATER TRANSPORTATION.

In view of the fact that our petition before this honorable committee for an absolute long-and-short-haul provision to the act to regulate commerce will affect all interior sections of the country served by navigable rivers, as well as those sections of the country tributary to the Pacific and Atlantic Oceans and the Gulf of Mexico, let me briefly lay before you some documentary evidence relating to the matter of water competition in general.

Under date of October 5, 1917, Hon. John H. Small, chairman of the House Committee of Congress on Rivers and Harbors, directed a letter to the Secretary of War as follows:

I am directed by resolution adopted by the Committee on Rivers and Harbors of the House of Representatives to make this communication. It is conceded that the Federal Government has jurisdiction over all navigable waterways; and it is the established policy of Congress to make provisions for the improvement of meritorious projects consistent with the demands of the country for additional means of transportation by water.

As the House of Representatives must initiate all legislation and appropriations for the improvement of rivers and harbors, and this committee has jurisdiction, and each of the members of the committee desire to discharge their duties in the most effective manner. The primary purpose in the improvement of the rivers and harbors is to provide adequate channels for navigation and thereby to promote transportation by water. It is evident that the mere deepening of the entrance to, or increasing the depth and area of a harbor, or the improvement of the channel of an interior waterway, will not establish water transportation. Likewise, neither will the construction of a railroad track assure traffic. They simply provide the basic necessity for transportation.

There are additional facilities which must be provided for in the establishment of water transportation:

1. There must exist a demand for the movement of products.
2. There must be water terminals constructed in accordance with appropriate plans. These terminals require ample water front and capacious warehouses. They should be physically connected by belt-line railroad with a railroad or railroads serving the community, and one or more good highways should radiate therefrom. They should be equipped with modern appliances for transferring freight between the water carrier and the warehouses to the rail car in the cheapest and most expeditious manner. These terminals should be constructed by a municipality or other agency of the State and maintained regularly for the service of the public. The size and cost of such terminals will vary according to the population and the financial ability of the community to be served and the volume of traffic which exists.
3. There must be one or more established lines of water transportation with sufficient capital, requisite number of carriers, and a complete traffic organization.
4. There must be a complete coordination between water transportation lines and the railroads, and a pro rate of traffic as to through rates between the water carriers and the rail carriers, such as now exist between the several lines of railroads, to the end that each may complement the other and be jointly dedicated to the service of the public.

The committee submit that the above additional facilities are both necessary and feasible. They further suggest as a general proposition that water terminals must be provided by the State or by municipalities, or other public agencies of the State, and that water carriers must be organized and maintained by individuals, corporations, or other local agency. It may be substantially stated that Congress may only improve for purposes of navigation the capacity of the channels of the interior waterways. It will be admitted that there are a limited number of harbors and a larger number of interior waterways on which the foregoing essentials have not been provided. In

act, it may be stated that the people of the country, including even that forceful class of citizens who manage large industrial units and are vitally interested in transportation, appear to have slight knowledge of the primary essentials for securing transportation by water. The demand for the movement of products by water which exists under normal conditions has been made acute under war conditions, and in many cases the essential facilities are lacking.

The committee are impressed with the conviction that it is their duty to draw attention to the serious dereliction of duty upon the part of the public, and to express the opinion that appropriations should not be made for the improvement of these rivers and harbors where the communities and localities are continuously unwilling to discharge their correlative duty by providing the facilities essential for the promotion of water transportation.

The committee have not established any arbitrary or inflexible rule. They are conscious that the public must be induced to realize its obligations in the development of water transportation by a process of publicity and education. They find it difficult to excuse the larger cities, where production is large and additional facilities of transportation are so insistent and where neither ignorance nor poverty can be pleaded in extenuation. The committee are further aware that time will be required even where the civic conscience has been aroused to provide these facilities and to fully utilize navigable waterways. For the present the committee only insists there shall be no willful disregard of local and public obligations in this respect.

On behalf of the committee I have the honor to suggest that a copy of this communication be transmitted through the department to all the district engineers in the United States, with the request that they submit a copy of the same to the governors of the States in which their districts are located, to the mayors of municipalities, to the officers of all commercial and civic organizations in their districts, and that they give publicity to same through the press so far as may be practicable.

Here, gentlemen, is a recognition by one of the most important committees of Congress, which is charged with the duty of providing for the improvement of our natural waterways, that the water transportation of to-day may be considered practically nil.

Recently, Secretary Charles Keller, of the Council of National Defense's inland water transportation committee, said, among other things:

The waterway connecting the Delaware River and New York Harbor, which is under practically perpetual lease to the Pennsylvania Railroad, formerly carried a comparatively large traffic in hard coal. It is now little used, although it might, with certain minor modifications, be used to advantage as one of the principal links of the through water route to New York. Its nonuse is naturally detrimental to the people of the seaboard States, but no remedy appears to exist short of the construction by the people, of a parallel route.

Again, Mr. Raymond B. Price, in a communication recently sent out by the conference committee on national preparedness, said in part:

That the railroads owned perhaps a majority of the valuable docks and dock sites all over the country on harbor, bay, river, canal, and lake; and that this is a relic of antiwater transportation policies which are inbred in our railroad men from top to bottom.

In an effort to relieve rail congestion and patriotically follow the plea of the War Department to use water transportation wherever possible the Keystone Steel & Wire Co. endeavored recently to ship pig iron by water route from Alabama to Peoria, Ill. A short rail haul was necessary, about 35 cars being needed. The Southern Railroad had the cars but refused to furnish them for that purpose. A trip to Washington to get the aid of the War Department and Mr. Daniel Willard was necessary, and with their assistance the cars were obtained and the shipment started. Although several tugs and barges better adapted to conditions for navigating the Tennessee, Ohio, Mississippi, and Illinois Rivers were needed, the results of the shipment were so satisfactory that another trip was made, and water transportation became established for that company.

The munitions output of New England is dependent upon ocean-going tugs, as two-thirds of New England's coal supply is delivered by water, and the overloaded railroads are unable to increase their coal deliveries to compensate for commandeering of



vessels in the New England coal trade. Thus again our war achievements are limited by our transportation facilities both on land and on water.

The Interstate Commerce Commission has ample testimony to prove that the New York, New Haven & Hartford Railroad persistently diverted traffic from its own water to its own rail lines, in spite of the fact that its boats were generally under-loaded and that the water haul was frequently cheaper and quicker. Unfair apportionments of cost between boat and rail, lack of compact packing of freight on the boats, and other methods were used to obscure the issue from the public. The public certainly was defrauded of its rights to have goods transported as cheaply and as expeditiously as any available means would permit.

The managers of some of our railways, however, since we entered the war, have repeatedly urged their employees to do everything they could to foster water transportation. The obstacles built up these past 80 years by the railroads against water transportation can not be overcome quickly through the voluntary efforts of railway leaders. The men in general do not realize our national necessities to the same degree that the leaders do. Hence it is not so easy for them to change their state of mind.

Again, the report of the Inland Waterways Committee of the National Council of Defense, recently made public, contains the following remarks:

Except as a last resort, at present shippers will not use the waterways unless water carriers can offer a reasonable differential under the rail rates, thereby affording a sufficient saving in cost of transportation to compensate for the difference in time and service, and a proper use of the waterways will not be made until this requirement is met. In a certain case the rail rate was 10 cents per hundred, Arkansas City to Cairo, while the barge rate was 6½ cents. This does not, however, mean a saving of 3½ cents to the shipper, because the latter pays the cost of transfer to cars at Cairo and may, moreover, be at greater expense for loading to barges at point of shipment, since cars are usually set conveniently and a wagon haul is often required to load the barges.

An example of these water competitive rates was recently brought to our notice by a river boat line, and inquiry showed that the rail rate on lumber from Arkansas City, Ark., where water competition may arise, to Cairo, Ill., is about two-thirds the rate from McGehee, Ark., an interior point, although traffic from Arkansas City to Cairo passes through McGehee. Rail rates from the lumber producing territory in the vicinity of Arkansas City have recently been raised, but those from points having possible water competition still remain relatively low. Illustrations of this kind might be multiplied indefinitely.

At present the inland waterways are, as a rule, lacking in the proper organization of their facilities of all kinds. Originally business grew up and was located on the banks of the waterways. When the railroads superseded the water carriers, and partly because space for expansion could also best be obtained by removal, business withdrew from the river bank or at any rate readjusted its methods so as to depend almost exclusively on the railroads. \* \* \* Just so long as the railroads are permitted to carry part of their traffic without the average of profit and to reimburse themselves at the expense of the rest of the country, just so long will the waterways have difficulty in carrying their just share of the country's traffic. We have been informed that in some cases the railroads intend now to raise abnormally low rates which are based upon merely possible, and not actual, water competition, but the readjustment so far appears slow. To the objection that raising of rail rates to water points will benefit only the railroads, the reply is, that if rates to interior points are unduly high, they should be reduced and that, moreover, the water lines may be expected to charge rates at least as low as the present nominally competitive railroad rates, since otherwise the waterways will probably get none of the traffic in the present circumstances of location and organization of our mercantile and industrial community.

Public interest in inland water transportation is lukewarm, and, in view of the abnormal cost of carriers (boats) and of their operation, and the risk involved in the attempt to establish this virtually untried enterprise, it is natural that the community be reluctant. In the opinion of your committee, in the existing circumstances, the policy of the United States as to floating equipment should be to give support, either by the direct construction of boats and barges and their subsequent charter to trustworthy concerns, or by enabling materials to be secured promptly and cheaply by such dependable concerns as are shown to desire to build their own fleets. The amount of help given should be the least that will permit needed water transportation enterprises of assured character promptly to be initiated, and any investment by the United States should be carefully protected.



The CHAIRMAN. Whence does that report come?

Mr. SHAUGHNESSY. This report comes from the Inland Waterways Committee of the National Council of Defense. It was recently rendered, some two or three weeks ago.

Do not these reports conclusively prove that there are no effective water competition agencies at the present time, and that the rail carriers maintain a long and short haul rating policy not only for the purpose of meeting water competition but for its elimination as well?

Further, is this not a profitable field wherein the Government might properly become a partner in the business of transportation? First, for the purpose of having well organized and well developed waterway facilities for the meeting of a national emergency, such as the present war entails; and, second, for the purpose of furnishing a reasonably adequate and constant service by water instead of the fluctuating and uncertain service of the past. And in any event, if this line of transportation is to be promoted either by private parties or the Government or both, is it not absolutely essential that it must receive the protection of an absolute long and short haul amendment to the act to regulate commerce, which will effectively prevent the carriers from annihilating water competition as they have in the past?

I shall now touch briefly upon the long and short haul discrimination occasioned by rail lines, competing for business at certain large cities, due to the long mileage line or circuitous route undertaking to meet the rate of the short mileage line or lines at large commercial and industrial centers, at rates less than those charged at interior points on the line of such circuitous routes. This practice results (1) in a violation of the law of economics; (2) in building up large cities at the expense of the small interior towns and cities; (3) in the wasteful use of freight cars which at all times and especially during the present emergency should be employed only over direct routes of shipment, thus helping to relieve the car shortage and to save by so much the present waste in the public transportation bill.

Speaking generally, we may illustrate the matter by reviewing the operation of this character of competition. Take, for example, a new and modern line with superior facilities, which has been constructed to an important commercial center or centers by a shorter route than that of the old established line or lines, which may not have been economically constructed and operated, as is often the case. The new line is thus enabled to profitably establish lower rates to said commercial centers than those formerly maintained by the old line. Without regard to any improvement in facilities, or the reduction in mileage, or otherwise, the older line undertakes to meet the rates of the new modern line at said commercial center or centers, while at the same time charging higher rates at many of the intermediate points on its line. This results in a duplication and waste of facilities at the expense of the public generally on the one hand, and on the other results in building up and centralizing population and commercial activity at said centers at the sacrifice of the towns and cities intermediate thereto.

To authorize the continuance of this practice means that the older, less modern, and longer line will not be compelled to improve its facilities and service in order to meet competition on the basis of

nondiscriminatory rates to its patrons at all points on its line, which in the interests of an equal development of all sections served, it could and should be required to do. Further, it means putting a premium on obsolescence and inefficiency on the one hand and monopoly on the other, and therefore should not be authorized as a matter of governmental policy. The shippers and consumers at intermediate points can not morally or justly be called upon to contribute to the cost of offsetting the effect of natural competitive conditions and facilities by the payment of higher rates for shorter than for longer hauls. Such practices can not properly be designated as "meeting competition." On the contrary, it means in all cases the neutralizing of competition, and in many its complete destruction.

In this connection let me quote what Judge Cooley has to say on the moral and economic side of this character of discrimination, at page 32 of the second annual report of the Interstate Commerce Commission:

It was impossible that it should be made to seem right to the common mind that such distinction should exist; the sense of justice received a shock when one was told that the small dealer in the country town was made to pay three times as much for the carriage of his goods as the city merchant paid upon the like quantity, for even a greater distance; and a well founded feeling of discontent arises among any people when it can see things done under the protection of its law which seem to be plainly and unmistakably unjust.

It will probably not be claimed by any one that it is desirable to give by law or through the use of public convenience an artificial stimulus to the building up of cities at the expense of the country. In great cities great social and political evils always concentrate, grow, strengthen, and the larger the cities are the more difficult it is to bring these evils under legal or moral restraints. The fact is so generally recognized that the feeling may be said to be practically universal that the interest of any country is best consulted when public measures and the employment of public favor are devoted to the diffusion of population and the profitable employment of industrial energy everywhere, rather than the concentration of population in few localities.

Exemplifying what is said above, this process of centralization has become so acute that for many years past there has been insufficient farm labor available for profitable operation and in many cases the owners of the farms throughout New England and Eastern States have put them up for sale at exceedingly small prices, and moved to the large cities to engage in industrial and commercial pursuits.

This emphasizes the evil effect of a governmental policy which does not provide equal opportunity for the uniform development of all territory within its jurisdiction, and therefore, vigorous steps should be taken looking toward the adoption of a comprehensive plan for the decentralization of our population, and the more equal development of our great resources.

May I not submit that what has gone before conclusively proves that there is no water or rail competition of sufficient importance to justify continuing the discriminatory long and short haul system of rate making for the future, which during the past has practically destroyed water transportation, prevented normal development of our natural waterways, centralized population, and built up favored industrial and commercial centers situated on or near our waterways at the expense of the great interior sections of the United States, and contributed perhaps more than any one thing in promoting community jealousies out of which have grown much of the resentment and hostility toward the railroads. Further, while the United States has pursued a policy of building up its railway transportation

system at the sacrifice of and without regard for the development of waterway transportation, it can not be too strongly urged that the present fourth section of the act to regulate commerce has signally failed as a matter of wise national policy, and that the time has now arrived when an absolute long-and-short-haul provision should be enacted.

EFFECT OF METHOD EMPLOYED BY THE INTERSTATE COMMERCE COMMISSION IN THE REMOVAL OF DISCRIMINATION.

The removal of the so-called Texas discrimination by the means employed in the Shreveport case and others similar in character which, under an alternative order issued, permitted the carriers to remove it by increasing the Texas rates, is justified by the Interstate Commerce Commission in its thirtieth annual report in the following language:

If we find rates in our opinion are unjust, unreasonable, and unduly prejudicial as alleged, it becomes our duty to order the cessation of these violations of the act, to determine and prescribe just and reasonable interstate rates to be thereafter observed as maxima, to require the carriers defendants to remove undue prejudice found existing, but we can not prescribe the exact rate or minimum rate to be maintained nor do we specify the particular method to be employed in removing the undue prejudice. The carriers remain at liberty to issue, in compliance with the act, such rates as they see fit, provided they do not exceed those set as maxima and do not continue the undue prejudice. In eliminating the latter they may lawfully reduce interstate rates to the basis of the State rates, increase the latter to the level of the former, or otherwise equalize the two in such a way as to do away with the undue prejudice.

This construction of the act received the approval of the United States Supreme Court in the Shreveport case, or more properly speaking the *Texas case*, 234 U. S., 342, and in the *South Dakota Express Rate cases*, 244 U. S., 617.

The question of State rights is again vigorously raised by a conflict between the State and Federal courts in the Illinois passenger fare case (*Business Men's League of St. Louis v. A. T. & S. F. Ry.*, 41 I. C. C.). The decision is now on appeal before the United States Supreme Court where the case has been argued and is now submitted. There is no reason to hope for any different construction than was given in the *South Dakota Rate case*, 244 U. S., 617, where it is held that even reasonable rates themselves must yield if necessary in the removal of discrimination. Under these alternative orders of the Interstate Commerce Commission the carriers may be empowered to to destroy practically any and all kinds of State-made rates whenever brought into issue by a complaint of discrimination from interests outside the State, as in the Shreveport, South Dakota, and Illinois rate cases. Likewise there is, as will hereinafter more clearly appear, grave danger of a complete breakdown of the effectiveness of railway regulation by a disregard of those fundamental principles of regulation which after many years of experience have been adopted by the people of the various States through the medium of their legislatures, courts, and commissions. Let me illustrate, for your information, the trend in this direction by an analysis of the Illinois passenger fare case.

The decision of the Illinois passenger fare case followed the Five Per Cent Freight Rate case, 31 I. C. C., 351, covering official classification territory, in which case it was held among other things that the passenger department of the railways was not paying its



fair share toward an adequate return upon the property. Thereafter an application of the carriers for an increase in passenger fares was heard and decided in what is known as Increase in Passenger Fares in Western Territory, 37 I. C. C., 1. In this case the Interstate Commerce Commission took as its base the accumulative cost of road and equipment without any allowance for depreciation, obsolescence or otherwise, and decided that the interstate passenger fares throughout the Middle States territory should be increased from 2 cents to 2.4 cents per passenger per mile. The rates threthofore for passenger service in the State of Illinois had been 2 cents per mile for both inter and intra State traffic, the 2 cents fare for State traffic having been fixed by the Legislature of Illinois in 1907, and by the carriers for interstate traffic.

Following this disparity in the rates created by the order of the Interstate Commerce Commission, the Business Men's League of St. Louis, on February 10, 1916, brought an action before the Interstate Commerce Commission complaining against the discriminatory application of the 2.4-cent fares between Chicago and St. Louis, Mo., as compared with the 2-cent fare between Chicago and East St. Louis, Ill. In removing this discrimination, the Interstate Commerce Commission ordered that its previous findings regarding the interstate base rate of 2.4 cents per mile be affirmed as just and reasonable, and in connection therewith ordered the railways to remove the discrimination which, under the circumstances, could only be done by increasing the 2 cents per mile legislative-made rate to 2.4 cents per mile for State traffic. In pursuance of this order the carriers filed tariffs establishing said 2.4-cent fare and applied to the District Federal Court at Chicago for a temporary injunction before Judges Evans, Landis, and Carpenter to enjoin the Illinois State officers from prosecuting them for violation of the 2-cent fare State act. This application was denied and the case was thereafter heard on its merits before Judge Landis, who dismissed the action on the ground that "the undoubted purpose, and the undoubted effect of the words the commission used in its order of October 16, 1916, was to completely nullify the Illinois 2-cent fare—was to kill the Illinois 2-cent statute, and substitute for it, the authority of the Interstate Commerce Commission of the United States. \* \* \*." Further, that the commission was without constitutional or statutory power to make an order which had for its purpose the abrogation of the State 2-cent fare statute; and that the order was broader than the issue. In other words, that the removal of the discrimination complained of between Chicago and St. Louis, did not authorize the commission to make an order affecting the entire State.

Upon appeal from this decision to the Supreme Court of the United States, Justice Clark, also denied the carriers' application for said injunction against the officers of the State of Illinois, whereupon it was stipulated, at the request of the carriers, that the case be advanced for hearing and argument before the United States Supreme Court on its merits October 2, 1917. Thereafter, during May or June of the present year, the Interstate Commerce Commission brought a proceeding against the carriers before the district Federal court at St. Louis, for the enforcement of the order held invalid by Judge Landis and denied upon said preliminary motion before the United States Supreme Court by Justice Clark as aforesaid. In this

new proceeding the carriers practically consented to the entry of a decree by Judge Dyer of the Federal court, requiring them to obey said order. Upon notice of the carriers that they would make the fares within Illinois 2.4 cents per mile, the Attorney General, upon request of the Illinois Railroad Commission secured an injunction from the Illinois Superior Court at Chicago restraining the carriers from violating said 2-cent fare act. Thereupon the Interstate Commerce Commission asked the Federal court at St. Louis to adjudge the carriers in contempt for failure to comply with the aforesaid Federal court order requiring the rates to be made 2.4 cents per mile.

In granting the application of the Interstate Commerce Commission Judge Dyer, in his opinion, gave notice to the State of Illinois and its authorities that if they attempted in any way to enforce the injunction issued by the State superior court at Chicago, or prosecuted the railroad companies concerned in their attempt to comply with his order requiring the carriers to make the fare 2.4 cents per mile, he would adjudge said authorities to be in contempt and incarcerate them in jail at St. Louis. Here it will be noted was a direct conflict between the Federal and State courts on the question at issue. In order to temporarily adjust the controversy a joint and concurrent resolution was introduced before Congress by Senator Sherman, of Illinois, June 20, 1917, directing the Interstate Commerce Commission to withhold action pending final determination, of the question set for hearing before the United States Supreme Court on October 2, 1917.

In its opinion in this case the Interstate Commerce Commission proceeded at considerable length to make out a case against the reasonableness of the 2-cent fare in Illinois and among other things emphasizes the increased cost of equipment, its increase in weight and, by inference, the increased cost of operating same in passenger trains for the year 1913 as compared with 1903. In this connection it was shown that the purchase cost of a six-car train operating between Chicago and St. Louis over the Illinois Central Railroad has increased \$36,473, whereas the weight has increased 252,500 pounds or, in other words, an increase of 126 tons per train.

Without desire to indulge in criticism, but because of the importance of protecting and preserving the fundamental principles of regulation which have been adopted by the States and approved by the courts, exception must be taken to the use of total accumulative cost as a basis upon which to increase rates and predicate a fair return. This is a most serious departure from time-honored practices in the field of regulation. In fact, it is the very annihilation of the principle that "an adequate return shall be predicated only upon the fair present value of the property at the time of the inquiry." Until adopted in these cases, no court, commission, or other regulative tribunal in this country has ever subverted such an important principle as this in its determination of what is just and reasonable to the public. I consider the action exceedingly harmful for the reason that it will be invoked against the public regulating bodies and courts by the public service corporations throughout the country, and, while the United States Supreme Court is thus far firmly committed against any such propaganda, it may, because the findings of the Interstate Commerce Commission on questions of fact are rarely

overturned by the courts and usually accepted as final, result in placing upon the public an absolutely unjustifiable burden.

Covering 250,000 miles, the accumulative cost of our railways now totals approximately \$18,000,000,000, or an average of \$72,000 per mile.

Mr. ESCH. Where are you getting those figures?

Mr. SHAUGHNESSY. These are figures from the Interstate Commerce Commission report.

Mr. ESCH. Eighteen billions?

Mr. SHAUGHNESSY. Yes; are the figures higher than you had in mind?

Mr. ESCH. Higher than some of the testimony that has been presented.

Mr. SHAUGHNESSY. This is the total accumulative cost. It is not the net cost. It is the actual accumulative cost or the book value, the book cost; all the money that has gone into the railroads since their inception.

In the western 5 per cent advance rate cases before the Interstate Commerce Commission in 1915 there was introduced on behalf of the western railroad commissions, including the Nevada commission, testimony showing that the appraised present value of twenty-five (25) railways serving Michigan, Wisconsin, Minnesota, South Dakota, and Nebraska, comprising 29,000 miles of line, was \$937,000,000, or an average of \$32,330 per mile, compared with which the stock and bond par value (not the market value) was \$1,459,000,000, and that the accumulative property investment cost was \$1,489,000,000, or an average of \$51,340 per mile.

In Nevada, the Interstate Commerce Commission has just completed its reproduction valuation of the property of the Tonopah & Goldfield Railroad covering 113 miles of line. As indicative of the wide variation between the company's book cost and the inventory value found by the Federal valuation engineers, let it be said that the accumulative cost of road and equipment reported by the railroad company is \$3,700,000, or an average of \$32,680 per mile compared with which the Commission's reproduction new value is \$2,180,000 or an average of \$19,225 per mile.

The Nevada Railroad Commission has, because not able to bear the expense of an inventory valuation of large railway systems, endeavored to secure a fairly close estimate of the fair present value of railway property for rate making purposes by a comparison of the construction cost of new properties with those similar in standard and by requiring the carriers to submit an inventory of the cost of reproducing their properties whenever possible. By combining these methods fairly satisfactory results have been secured both to the carriers and to the Commission.

The fallacy of using book cost is quickly demonstrated by the carriers themselves when their property is under consideration for taxation. Showing is always strongly and properly made that accumulative cost must not be used because it does not take account of the obsolete and discarded property, and that it does not fairly measure the real value of the property then in existence and beneficially used in the public service. The State authorities have, I believe, without exception, accepted this view as sound, and a number of States, notably Wisconsin, Michigan, and New Jersey, have made inventory



valuations of their railway property for the purpose of accurately establishing the actual cash value for taxation. In finding the "cash value" for taxation and sale (the rule being the same in both cases) there is included the intangible value made up from the earnings on the rates fixed on the "fair present value." The *Monongahela Case* 148, U. S. 312; The *Backus Case*, 154 U. S. 439. Therefore, the sale or taxation cash value can not ordinarily be taken for rate fixing purposes because to do so would justify continuing increases in the rates if the business remains normal or is upward in tendency. There is much confusion in the public mind regarding these distinctions in value—many people believing that the "cash value" evidenced by stocks and bonds in some cases and by the earnings in others should be the basis upon which to fix rates for the shippers and consumers, but as before stated this would justify a continuing increase in rates without in any way increasing the service to the shipper or the cost thereof to the carrier. (See *New Jersey Gas Case*, 87 Atl. 651.)

If all of the 250,000 miles of railway within the United States, large and small, including main and branch lines, both productive and non-productive should upon final appraisalment by the Federal valuation board reach an average valuation of \$50,000 per mile, which, all things considered seems high for rate fixing purposes the fair present value of the railways would be  $12\frac{1}{2}$  billion dollars, compared with which the book cost value is approximately 18 billion dollars. If upon said fair present value the carriers should for the future, under normal conditions and reasonable rates, earn 900 millions net per annum, after deducting operating expenses and taxes, it will be the equivalent of 15 billion dollars on a 6 per cent basis, and this amount will be the condemnation or sale value.

The variations in the valuations above referred to speak for themselves and emphasize the danger and injustice to which the various States will be subjected if just and reasonable rates for intrastate traffic are to be omitted, and thereafter increased by an order of the Interstate Commerce Commission predicated on the basis of accumulative cost value instead of fair present value, as was done in the *Illinois Case*. In this behalf the Interstate Commerce Commission said in the *Western Passenger Fare Case*, 37 I. C. C. 16, upon which the *Illinois Case* was based:

"The liability of error in accepting the book cost of property as the basis for the computation of return on investment is fully realized."

Further, if such accumulative cost of the railroad property is validated or recognized, will it not make it exceedingly difficult to hereafter bring into the equation the matter of the fair inventory valuation of the railways now being made by the Interstate Commerce Commission under an act of Congress? This matter is of such vital importance that attention should be given to it in time to prevent a burdensome surplusage, such as here indicated, being added to our transportation bills, and to prevent the railroads from denying the public the benefit of such just and reasonable rates as should be prescribed on the basis of fair present value.

Exception must also be taken to the use of increased weight, increased cost of equipment, and increased cost of operating passenger trains, as a justification for increased local passenger fares. This line of reasoning is not convincing, and standing by itself, is almost as

fallacious a base upon which to predicate just and reasonable passenger fares for State traffic as is the matter of using the total accumulative cost of road and equipment instead of "fair present value," for the reason that while intimation is made by the commission as a preface to its analysis, that these improved passenger train facilities have been demanded by the public, they have, as probably all know, been inaugurated largely for the benefit of the through long-haul interstate traffic and not for the benefit of purely local State passenger traffic. It is, therefore, unreasonable to intimate that any substantial portion of the cost of these increased facilities should be charged against local State traffic. In this connection, it is to be stated that it has been the uniform policy of the railways for years, and is to-day, to use its passenger department largely as an advertising medium, as well as for the purpose of rendering an adequate public service. It, therefore, results that the carriers maintain a policy of building this branch of the service far in advance of the public needs, and in vying with each other in an effort to make its passenger service just a little bit better and more inviting than that of its rivals, in order to encourage travel to its lines, and thus by furnishing a superior and more luxurious service, secure freight business. This in turn has resulted in a wasteful duplication of passenger train service between important interstate centers of travel, and it is also responsible for the exceedingly costly State passenger train service furnished on account of said trains being made up of heavy standard and tourist sleeping cars, buffet cars, observation cars, and dining cars; also the operation of trains de luxe, used exclusively for the benefit of through traffic, and special train service accommodating heavy colonization and excursion business—practically all of which is properly chargeable to interstate traffic, and with which local traffic is only incidentally concerned. Yet the Interstate Commerce Commission, by its decision in the *Illinois Passenger Fare Case*, holds that the people who are traveling locally between points within the State must bear their proportionate share of all these burdens, without regard to the fact that the incidental benefit to them is small and that they are in no way responsible for the heavy train and locomotive equipment which is made necessary in order to maintain this through competitive service. From the standpoint of what, all things considered, may constitute a reasonably adequate local service the distinction to be observed between through and local train service, is fairly exemplified by the electric railway lines upon which a comfortable and expeditious passenger service is maintained throughout different States at rates ranging from 1½ to 2 cents per mile.

The train facilities used by the carriers in furnishing a through passenger service are without question the finest to be found in the world, but there is reason to seriously question whether the cost thereof is not becoming too burdensome to both the railways and the traveling public. The average passenger train to-day is six cars and locomotive, comprising mail, baggage, and express cars, coaches, and dining, sleeping, and observation cars.

Estimating that all steel cars are used, which the railways have been and are adopting as rapidly as possible, the dead-weight tonnage of such a train will average approximately 550 tons. The average train capacity is not less than 150 passengers, whereas the average load is 54 passengers or 36 per cent of capacity. Further, the

analysis indicates that in the use of the modern six-car all-steel trains an average of 10 tons of equipment is used in transporting each passenger. Is this not an unreasonable waste? No such tonnage as this is reasonably necessary, and unless steps are taken to correct it, the bulk of the local passenger business will, due to improvements in the art of transportation by self-propelled overland vehicles, be taken from the rail carriers. In this connection it is interesting to note the rapid growth of automobile and auto-stage traffic, and to keep in mind that an attractive and comfortable local service is furnished through this medium by the use of facilities averaging about one-fourth ton per passenger, as compared with the aforesaid 10 tons. In my opinion, passenger-train weight should be cut right in two and the public at large given the benefit of as economical a passenger service as is consistent with comfort and safety. The present passenger facilities are, for the above reasons, wasteful and place too heavy a burden upon the public in carrying and maintenance costs and investment. No regulation of this feature of railway service has been undertaken on behalf of the public. Unless it is taken in hand the carriers are free to go on increasing the capacity of their facilities and likewise the strength of their tracks, because the former forces the latter, and thus building into the future and increasing the investment sufficiently to not only offset the normal increase which takes place in traffic, but ultimately to justify, under the policy authorized in the Illinois case, 4-cent local fares.

Carrying the analysis a step further, the railway operating statistics show that freight-carrying equipment has largely outgrown reasonable proportions; that it is cumbersome and expensive in investment, operation, and maintenance; and that it does not show the operating and service efficiency that might reasonably be expected. The average dead weight of cars and engines in train lots for 1915 was approximately 24 tons per car and their average carrying capacity was 40 tons each, but the average load of freight carried was only 13.8 tons per car, or a load factor of  $34\frac{1}{2}$  per cent. From this it will be seen that a nonproductive dead weight of  $65\frac{1}{4}$  per cent in equipment was hauled during the year 1915. Besides the waste involved in investment, operation, and maintenance of the entire plant these excess-capacity facilities are largely responsible for a very slow freight movement to the disadvantage of the shipping public. Regulation and relief should be provided for along these lines. Recently Daniel Willard, Esq., railway president and member of the Council of National Defense, made the statement that freight cars were in the hands of shippers 37 per cent of the time, and that of the balance, or 63 per cent of the time that the cars are in possession of the carriers, they are moving but 11 per cent of the time.

Again, the statement recently issued by the Railway War Board shows that the average engine movement on the railways of the United States is only 68 miles per day, and that the car movement is only 28 miles per day, or hardly the equivalent of ordinary everyday suburban truck and automobile mileage. In view of the fact that thus far there has been no effort on the part of the Interstate Commerce Commission or Congress to prescribe freight movement speed regulations and as the matter has been one of railway policy and management it can not be said that State or National regulation is responsible for this condition of affairs. On the contrary it may be



said that it is because of the absence of such regulation—which, manifestly, is necessary for the future.

Seemingly, everything has been subverted to the question of increased train loading, upon the theory that it would result in greatly improved operating economy. It is doubtful, however, whether this result has been satisfactorily accomplished when proper consideration is given to the largely increased investment made necessary in track and equipment, the heavy cost of maintenance of engines and cars occasioned by "drag tonnage trains," and the wasteful cost of handling the enormous dead weight in equipment, which, as before shown on a load factor basis, is unreasonably excessive in capacity. As before stated, this policy of heavy train loading has resulted in an exceedingly slow freight movement to shippers and consumers, and it is responsible for much of the car shortage which exists to-day. It has also limited the monthly mileage of train and enginemen, upon which the adequacy of their compensation largely depends and has forced them to make frequent demands for an increase in the mileage units of pay in order to secure a fair monthly compensation. I believe that if the train and enginemen had been enabled as traffic grew to increase their monthly mileage reasonably and without undue hardships, instead of sacrificing everything to tonnage train loading, it would not have been difficult to adjust the wage question satisfactorily without the intervention of legislation in the various forms it has taken during recent years. And by the same means the public would have received the expedited freight movement to which it is fairly entitled, and which it will ultimately demand and enforce by requiring a movement averaging 15 or 20 miles per hour between terminals instead of the present speed of approximately 10 miles per hour.

Aside from the reluctance or the refusal of the States to relinquish their sovereign power to regulate their own internal commerce and its instrumentalities, these are the reasons why they can not consent to any scheme of regulation which will put them at the mercy of such practices as are herein referred to.

In closing, let me state that I am opposed to Government ownership of railways. In lieu thereof, I believe the antitrust laws should be loosened up and the railways allowed to consolidate under either State or National holding companies, thus enabling all of the East and West railway lines to merge under the ownership of three or four ocean-to-ocean systems, and likewise the North and South lines to merge into one or more Great Lakes-Gulf systems. Possibly one great national holding company might be created to hold or own them all. This would enable the system or systems to adequately provide for the weaker lines, which now are unable to meet their financial obligations without rate increases that are not needed by the strong lines, and it would also enable the system to carry necessary extensions built into new territory until the country served becomes sufficiently developed to make the investment profitable.

Such an arrangement would prevent the wasteful duplication of investment and facilities which now takes place and forever eliminate the railroad receiverships, some of which have been honest and others criminal, from which it follows that thoroughgoing protection would be afforded to the public and the investors in railway stocks and bonds, while at the same time insuring the highest form of railway

credit. But in perfecting this organization it should be provided that all of the railway corporations making up these merged systems or system shall remain subject to their present charter obligations in all matters relating to taxation, rates, and service within the various States. This will retain to the States the same dignity they now enjoy. Transportation is an exceedingly important function of government—State government as well as National—and therefore the States should not be asked to relinquish this sovereign right. The State must be considered in any plan devised for consolidation and Nation-wide operation. Otherwise, if the States are made subordinate in power and dignity to the railways, as in the Texas and Illinois rate cases, the failure of the end sought will be foreordained from the start.

The CHAIRMAN. Mr. Shaughnessy, your contention is that water competition should be permitted to operate to the advantage of the public?

Mr. SHAUGHNESSY. Yes, sir.

The CHAIRMAN. Without attempting upon the part of legislation or regulation to enable the rail carrier to compete with it?

Mr. SHAUGHNESSY. Yes, sir; I think that would be the wisest policy, Senator.

The CHAIRMAN. That is all. Senator Cummins, have you any questions?

Senator CUMMINS. I had intended to put the suggestion that I am now about to make before some of the witnesses when we were meeting at San Francisco, but the time there did not seem to be sufficient, therefore I omitted it.

Your insistence is that Congress should declare that in no case shall a common carrier charge more for the shorter than the longer distance, the same direction, over the same line?

Mr. SHAUGHNESSY. Yes, sir.

Senator CUMMINS. That is the equivalent of a legislative declaration that it is unreasonable and unjust to charge more for the shorter than the longer distance. You are a lawyer. I take it, from your very careful review of these decisions?

Mr. SHAUGHNESSY. No, sir; I do not qualify as a lawyer.

Senator CUMMINS. Well, it is perfectly plain that you have a very fair and adequate conception of the law upon the subject. And that prompts me to ask you this question: How far, in your opinion, could a court review that declaration on the part of Congress?

Mr. SHAUGHNESSY. An absolute long-and-short-haul amendment?

Senator CUMMINS. Yes.

Mr. SHAUGHNESSY. Well, it would be my judgment, without knowing very much about the law, that the rule of Congress would be supreme on the subject, or practically so.

Senator CUMMINS. Could it be said that there is no case in which it is reasonable and fair to charge more for the shorter than the longer distance?

Mr. SHAUGHNESSY. Well, now, I can not imagine such a case.

Senator CUMMINS. I am not now asking of you whether we have the physical power to say so, but can it be the case that there is no instance in which the higher charge for the shorter distance would be reasonable?

Mr. SHAUGHNESSY. No; I do not believe there is any such case as that, Senator.

Senator CUMMINS. In order to justify a positive declaration of that kind it is necessary to have in mind, anyhow, the basis upon which rates should be adjusted and charges made?

Mr. SHAUGHNESSY. Yes.

Senator CUMMINS. What is the basis you have in mind, what is it that controls, or ought to control, a carrier, in fixing rates?

Mr. SHAUGHNESSY. Well, of course, the controlling thing that they consider is the commercial conditions, and it is pretty difficult to say to a railroad that they shall not consider those commercial conditions. In fact, they will consider the commercial and competitive conditions in so far as they are not prohibited by law, and when you come down to the consideration of the commercial and competitive conditions, why the rates vary necessarily with the different circumstances and conditions met, and I do not think that the traffic manager undertakes to say that each and every rate, or he can not tell, at least, that each and every rate is compensatory. That is the system of rates under which we are operating at the present time.

Senator CUMMINS. Why are you satisfied with a declaration that there shall be no greater charge for a shorter than the longer distance? Why do you not insist that there shall be a lesser charge for the shorter distance?

Mr. SHAUGHNESSY. A proportional rate, according to mileage?

Senator CUMMINS. I did not say that, but I put it a little more broadly than that. Why do you not come before us and insist that in making rates in this country there shall be a lesser charge for the shorter distance; if it can be said there shall be no greater charge for a shorter distance, why can it not be said there shall be no lesser charge for a longer distance?

Mr. SHAUGHNESSY. I think perhaps we are entitled to mileage distance rates by reason of our location being the shorter included within the longer, but we have felt that we would be willing to get along very nicely on the basis of equal rates, the business of our country is largely made up now, that is, the long-haul business, on equal or blanket rates, and it may be—personally I believe the blanket rates scheme must be followed in this country, and I do not know that we can overturn that system of rate making or that it would be wise to do so.

Senator CUMMINS. But when Congress is asked to declare a positive rule upon that subject, that is, a rule beyond the decree that all rates must be fair and reasonable and just and nonconfiscatory, it ought to declare the true rule, if it can find it. Now, it is apparent to me that the declaration that there shall be no greater charge for the shorter distance than the longer is a mere arbitrary declaration; that we must go further and discover, if we can, the true rule.

Mr. SHAUGHNESSY. Well, that involves mileage rates, I should imagine, and mileage rates might work all right on certain traffic, perhaps manufactured articles westbound, but when we come to work the same rule eastbound, I doubt very much whether it would work so beneficially, because eastbound it is necessary to have as near a blanket rate on the products of the soil and the products of the forest and the products of the mines as you can get in order to enable the producers to get into the various markets on an equality.



Senator CUMMINS. But your argument, carried to its logical end, condemns all blanket rates, as well as greater rates for the shorter distance than the longer one, does it not?

Mr. SHAUGHNESSY. I did not mean for my statement to condemn the blanket-rate system. I favor it for long-haul interstate traffic, because it insures equal opportunities for markets and community development.

Senator CUMMINS. I know you appear to be satisfied with the blanket rate, but the argument in and of itself that Congress should establish a positive rule upon the subject seems to me to lead to the conclusion that there should be no blanket rates. Is there not in your mind after all, and in the mind of everyone who argues in favor of an absolute declaration upon this subject the idea that the charges of a carrier for its service should be proportionate to the cost of the service?

Mr. SHAUGHNESSY. Yes; it is in a general way fair to base the rates according to the length of the haul and cost of making it, and matters of that kind.

Senator CUMMINS. If that is the real foundation for the argument in favor of a positive declaration on this subject, does it not seem to you that the argument destroys itself, in that if we follow that plan we must give to some tribunal the jurisdiction to ascertain what is the cost of the service, and to apportion or fix the rates accordingly?

Mr. SHAUGHNESSY. That jurisdiction is already placed, as I understand it, Senator, in the hands of the Interstate Commerce Commission.

Senator CUMMINS. For instance, a positive rule upon this subject, according to your claim, would seem to imply that a railroad might charge as much for carrying a carload one mile as for carrying it a thousand miles?

Mr. SHAUGHNESSY. Of course literally construed that might be the basis of what we ask for, but I do not think it would ever be carried to any such extreme as that, Senator.

Senator CUMMINS. What you really want to say is, I assume, that no greater charge shall be made for the lesser distance, but that the commission ought to go further and if it finds the shorter haul should have a lesser charge, that then it shall so establish it?

Mr. SHAUGHNESSY. Yes. The commission, I think, has that power at the present time.

Senator CUMMINS. Yes, but do you not see that that after all puts up to the commission the ascertainment of the reasonableness of the two rates?

Mr. SHAUGHNESSY. Yes.

Senator CUMMINS. The through rate and the intermediate rate?

Mr. SHAUGHNESSY. Yes.

Senator CUMMINS. And I can not see any reason for cutting off the jurisdiction of the commission at just the point which you suggest, namely, that the charge shall be no greater for the lesser distance. In order to be logical it would seem to me that we ought to say that the charges for this business ought to be made according to the cost of doing business, without regard to the compulsion, if you please, of competition, either at the water's edge or in the interior when brought about by competition of railways alone.

Mr. SHAUGHNESSY. I suppose you have in mind that in order to make that work on the products of the soil, the forest, and the mines from our section, that if, instead of the blanket rates we now carry from Denver to all eastern points we should be required to graduate the rates upward as distance increases it doubtless would restrict our markets and production.

Senator CUMMINS. I have no settled conviction upon the question. It is the most difficult one which I know of relating to the adjustment of rates, but what you want is to say that competition shall not be regarded to the extent of reducing the terminal rate below the intermediate rate?

Mr. SHAUGHNESSY. That is the point; yes, sir.

Senator CUMMINS. But if we do that, how can we stop short of saying that competition shall not be regarded sufficient to reduce the terminal rate below a fair proportion, or to reduce the terminal rate below a point that will establish a fair relation between the intermediate point and the terminal point?

Mr. SHAUGHNESSY. Well, if we have an absolute long-and-short-haul provision there would not be any occasion of that kind, would there, Senator?

Senator CUMMINS. Yes, but we have got to find some solid ground, some principle upon which to base a declaration of that kind. We have said that all rates shall be fair and just and reasonable. We have given that to the commission. Now we are taking away from the commission a part of the jurisdiction which we formerly conferred and establishing a legislative status, and when we do that we have got to establish it upon some principle, it would seem to me. And that is the point that has perplexed me in regard to an absolute long-and-short-haul clause. I call it to your attention so that you can reflect upon it. I do not know whether there is any merit in it or not.

That is all, Mr. Chairman.

The CHAIRMAN. Mr. Sims.

Mr. SIMS. Let Mr. Esch proceed first.

Mr. ESCH. I have a few questions to ask. In your statement you said, Mr. Shaughnessy, that on eastbound traffic the rates were blanketed east of the Denver line?

Mr. SHAUGHNESSY. Yes.

Mr. ESCH. And the railroads of the intermountain and western section justifies the blanketing of rate on agricultural products on the ground that it afforded to your farmers, horticulturists, and so on, a better market?

Mr. SHAUGHNESSY. Yes, sir.

Mr. ESCH. Then you cited the fact that wool, however, did not receive the blanket rate, but that for a ton, that the carrier charged \$20 a ton from San Francisco to Boston, if I remember rightly, and for Winnemucca, which is east of Reno, it was \$38 a ton?

Mr. SHAUGHNESSY. Yes, sir.

Mr. ESCH. How did the carriers justify that discrimination? That is a product of the soil anyway?

Mr. SHAUGHNESSY. They justify the maintenance of the \$20 rate from San Francisco upon the ground that they are compelled to meet the Australian competition, upon the wool coming from Australia, all-water to Boston, and they claim that it is necessary to have a rate

of \$20 a ton from San Francisco and other Pacific coast ports to Boston, all-rail, in order to meet that Australian water competition.

Mr. ESCH. Does that amount to a differential of \$18 a ton.

Mr. SHAUGHNESSY. It certainly does.

Mr. ESCH. Do they make any discrimination as to sugar?

Mr. SHAUGHNESSY. No; there is no discrimination as to sugar.

Mr. ESCH. Why would not the same argument apply as to the Hawaiian Islands?

Mr. SHAUGHNESSY. It might. It is an example that is in point, which is absolutely in point, but they have never done so. The sugar goes upon a basis, I think, of \$13 a ton all territory east of Denver to Chicago and \$15 a ton east of Chicago territory, and when you get down in Louisiana territory where sugar is produced, it goes up to \$17 a ton.

Mr. ESCH. You gave a very elaborate review of the Shreveport cases and cited also the Illinois rate cases and the South Dakota express rate cases, showing conflicts between the States and the Federal commissions. What is your opinion of this recommendation, made in the last report of the commission?

That without abdication of any Federal authority to finally control questions affecting interstate and foreign commerce the commission be expressly authorized to cooperate with State commissions in efforts to reconcile upon a single record the conflicts between the State and the interstate rates.

Mr. SHAUGHNESSY. I agree with that.

Mr. ESCH. In your opinion then the sitting of a State commission with the Federal commission would not cause a conflict of authority?

Mr. SHAUGHNESSY. There probably would be conflicts to some extent, but not greatly so, Mr. Esch. I believe practically all those situations could be pretty well ironed out by the various State commissions and the Interstate Commerce Commission sitting together. However, I do not think that the jurisdiction of the State over its own internal commerce should be taken from it, because of that cooperation. In fact, I think the jurisdiction of the various States should be made entirely clear on that point, that it is not to be abrogated or usurped, because unless that is done we are going to create an awful lot of jealousy and opposition in the minds of the people at large, and as a matter of wise policy I do not think you can afford to incur that, nor can the Interstate Commerce Commission and the railroads reasonably afford to incur that opposition and that hostility, and I think you can better settle that by providing specifically that the States shall retain their full jurisdiction over internal commerce and its instrumentalities, and then go on and provide for making effective the recommendation of the Interstate Commerce Commission for the cooperation of the interstate and the State tribunals on matters that affect discrimination.

Mr. ESCH. You think, then, that the reconciling on a single record of these differences between the State and Federal authorities over rates should be encouraged?

Mr. SHAUGHNESSY. I do; yes, sir.

Mr. ESCH. Of course you would nevertheless recognize the supreme control or power of the Interstate Commerce Commission?

Mr. SHAUGHNESSY. Yes, sir. Subject to the qualifications and safeguards I just referred to that would be the fundamental rule.



Mr. ESCH. Just one other question, with reference to efficiency. I think you have stated, if I recollect your figures rightly, that the dead-weight tonnage of the average passenger train now is 550 tons?

Mr. SHAUGHNESSY. Yes; that is, figuring on the all-steel equipment.

Mr. ESCH. And containing six cars?

Mr. SHAUGHNESSY. Yes, sir.

Mr. ESCH. With a passenger capacity of 150?

Mr. SHAUGHNESSY. Yes, sir.

Mr. ESCH. But an average patronage of 54 to the train?

Mr. SHAUGHNESSY. Yes, sir.

Mr. ESCH. And you deduce from that that that would mean 10 tons dead weight per passenger?

Mr. SHAUGHNESSY. Yes, sir.

Mr. ESCH. And I infer from what you said that that was inefficiency?

Mr. SHAUGHNESSY. Yes, sir.

Mr. ESCH. But how would you overcome that? If the people insist that they should be carried in steel cars, would you want to go back to the wooden shells that we used to have, with the frightful disasters of telescoping and burning people in the wrecks? How would you overcome that?

Mr. SHAUGHNESSY. My view on that may be somewhat different, Mr. Esch. In the first place I do not believe that the all-steel equipment has provided an absolute safety factor. Of course it is somewhat more safe than the old wooden cars, but not greatly so. For instance, to-day the all-steel equipment, when you are in a very severe collision, telescopes and breaks up, perhaps not to the same extent that the old wooden equipment did; but as to the fire hazard, the fire hazard in the old days came from the use of lamps and gas; to-day that is largely removed by the use of electrical equipment, and it is my contention that wooden equipment could be substituted, especially at this time, to great advantage. It is much cheaper than the steel materials, and it is among the classes of material that have not greatly increased in price.

Mr. ESCH. Your views run counter to the repeated declarations of the Interstate Commerce Commission, do they not?

Mr. SHAUGHNESSY. I am not in accord with them on that, because the operating results do not show the things that were hoped to be accomplished by steel equipment.

Mr. ESCH. In their recommendations they say that the use of steel cars in passenger-train service be required, and that the use in passenger trains of wooden cars between, or in front of steel cars, be prohibited.

Mr. SHAUGHNESSY. Yes; that is true.

Mr. ESCH. I think that the reports of the Chief of the Division of Safety Appliances in the Interstate Commerce Commission, Mr. Belknap, all seem to trend one way, of the increased safety to the traveling public resulting from the use of steel cars.

Mr. SHAUGHNESSY. Yes.

Mr. ESCH. I appreciate what you say, that the use of steel cars adds greatly to the dead-weight tonnage of the train, necessitating heavier locomotives, and of course heavier rights of way?

Mr. SHAUGHNESSY. Yes, sir.

Mr. ESCH. But the public will insist on the continuance, in my opinion, of the steel-car equipment.

Mr. SHAUGHNESSY. Perhaps they feel safer in it. I think there are equally good reasons, Mr. Esch, and better results to be obtained by a wise and reasonable use of both steel and wood in reducing the present excessive dead weight. I know, I am very sure it will be found after all equipment is converted to steel, that we have been hauling around a lot of dead weight, aggregating 10 tons per passenger in our passenger equipment, and we will later on go back to a very much lighter standard of car than that. The increased safety factor that we are all striving for at the present time will be obtained through other methods, will be obtained through the use of automatic train stops, which will amount to preventing the collision rather than building battleship equipment to withstand the shock when the collision occurs. Automatic train stops will prevent the collisions and loss of life, and their adoption, which should be required forthwith, will insure the maximum of safety and the economical use of light equipment.

Mr. ESCH. The commission has recommended the use of automatic stops; there are train-control devices, and our committee in the House has recommended such a bill to the House in a former session.

Mr. SHAUGHNESSY. Yes, sir.

Mr. SIMS. Mr. Chairman, shall I proceed?

The CHAIRMAN. Yes, sir.

Mr. SIMS. I do not know that I understood that statement in the reply you made to Mr. Esch. Is it necessary to carry wool from San Francisco, or some point on the Pacific Ocean, to New York at \$20 a ton in order to meet the competition in wool from Australia?

Mr. SHAUGHNESSY. That is their justifying reason for the maintenance of the wool trade.

Mr. SIMS. What is the reason given by the railroads themselves?

Mr. SHAUGHNESSY. By the railroads; yes, sir.

Mr. SIMS. Now suppose we shipped a ton of wool, or ten or a hundred tons from San Francisco to New York or Boston, that goes at \$20?

Mr. SHAUGHNESSY. Yes, sir; when shipped in carloads.

Mr. SIMS. Suppose you make the same shipment from Salt Lake City, what would it go at?

Mr. SHAUGHNESSY. The freight is somewhat less from Salt Lake City. I do not just remember.

Mr. SIMS. Well, from your own State, from Reno?

Mr. SHAUGHNESSY. Take it from Winnemucca, our average representative point, \$38 a ton.

Mr. SIMS. Eighteen dollars a ton more for a ton of wool of the same kind going over the same road from Winnemucca to New York or Boston than from a Pacific Ocean point?

Mr. SHAUGHNESSY. Yes, sir.

Mr. SIMS. Then wool from the interior, Winnemucca, shipped from there, can not compete with Australian wool in the eastern markets?

Mr. SHAUGHNESSY. It has been able to because of the demand for wool.

Mr. SIMS. How can it do it if it is necessary for the wool shipped from California to go at \$20?

Mr. SHAUGHNESSY. That would be true in most commodities, and it would be true in wool, too, if there was not a very keen demand for it; but for a number of years the Nevada wool has always been in demand, and there has always been a market for it, therefore it did not prevent its moving.

Mr. SIMS. This Australian wool is not shipped from San Francisco, is it?

Mr. SHAUGHNESSY. No, sir.

Mr. SIMS. It is shipped from Australia?

Mr. SHAUGHNESSY. Yes, sir.

Mr. SIMS. There is no railroad connecting with the Atlantic coast from Australia, is there?

Mr. SHAUGHNESSY. No, sir.

Mr. SIMS. Then how is it enabling a railroad company in the United States to meet water competition in the United States by giving them a rate against a foreign country?

Mr. SHAUGHNESSY. I do not think it is at all justifiable.

Mr. SIMS. I want to find the ground—upon what grounds it was permitted by the Interstate Commerce Commission, if they have any power to control it.

Mr. SHAUGHNESSY. Other than the Australian competition, I do not know, sir.

Mr. SIMS. I asked that simply because I wanted to get it clearly in my mind. Is that correct, that from the Pacific points, I mean from—

Mr. SHAUGHNESSY. San Francisco.

Mr. SIMS. From Pacific coast points, both in the interior or on the coast, that all rates are the same for points east of Denver?

Mr. SHAUGHNESSY. Well, not all, but largely the products of the soil; the principal products of the soil are upon the same basis after you pass Denver going east, into all markets—practically all markets.

Mr. SIMS. It does not matter how much beyond Denver it may be?

Mr. SHAUGHNESSY. No, sir; for instance, I might illustrate that by taking the rate on oranges, which are raised in large volume in California. The rate from California points to Denver is \$1.15, and to all points east from Denver, including Atlantic coast terminal points, it is \$1.15.

Mr. SIMS. From California?

Mr. SHAUGHNESSY. Yes, sir.

Mr. SIMS. And the railroads actually haul oranges from California, I mean to the territory east of Denver, for nothing?

Mr. SHAUGHNESSY. Well, I do not look at it quite that way.

Mr. SIMS. Is it not a fact, though, if they charge the \$1.15 to Denver, and do not charge over that to Chicago, Boston, and New York, if they are hauling it, if it going the same way, if the rest of the haul is not absolutely free to the owners of the oranges or to the purchasers of them?

Mr. SHAUGHNESSY. No; I hardly look at it that way.

Mr. SIMS. Does he pay any more money?

Mr. SHAUGHNESSY. No, sir; he does not.

Mr. SIMS. I mean in the money sense—the railroad, or the shipper, or the purchaser?

Mr. SHAUGHNESSY. I might say yes to your question, in the abstract, but you must take into account the justifying conditions upon



which they have based the initial rate before you can say it is done for nothing.

Mr. SIMS. Well, as far as the railroad haul is concerned from Denver east of that box of oranges, or that carload of oranges, from there on the cost is absolutely nil, is it not?

Mr. SHAUGHNESSY. Yes, sir; that is true.

Mr. SIMS. The railroad does not get one cent more for carrying them beyond there than if they stopped at Denver?

Mr. SHAUGHNESSY. No, sir.

Mr. SIMS. Then is that not absolutely a free service, so far as the railroads are concerned?

Mr. SHAUGHNESSY. Yes, taken in that light.

Mr. SIMS. It does not increase revenues?

Mr. SHAUGHNESSY. No, sir.

Mr. SIMS. But it does increase expenses, does it not?

Mr. SHAUGHNESSY. No, sir; I do not see it that way.

Mr. SIMS. It has got to take a train on from Denver to Chicago or New York, and get no more for carrying, then what is the reason it does not increase transportation expenses on that carload of oranges?

Mr. SHAUGHNESSY. Of course, that may be one way of looking at it.

Mr. SIMS. Is it not a fact?

Mr. SHAUGHNESSY. Well, I would not say it was. Of course, it is the volume of business that the rate is fixed upon in the first instance, and they figure there will be a volume, say, of 50,000 cars of oranges per year, which I think there is. On that volume they could make a rate of \$1.15 a hundred, or \$23 a ton to all territory, beginning at Denver, and serving all points east of Denver, and including the Atlantic coast points.

Mr. SIMS. They figure that on the entire volume of business they can make a profit?

Mr. SHAUGHNESSY. Yes, sir.

Mr. SIMS. Then it must necessarily mean that they must charge more than it is worth for part of the shipment and less than it is worth for part of the shipment?

Mr. SHAUGHNESSY. Naturally there are some points in there that are lower and some higher. There is another point in there, that is the average point, I suppose, to which the rate, if separately considered, might be about right, but this does not fairly state the case, because when the entire movement is averaged the rate is profitable and lower than it might otherwise be if the production and consumption was restricted by mileage rates.

Mr. SIMS. Is that not purely an arbitrary matter? Do they not determine that in and of themselves?

Mr. SHAUGHNESSY. Yes, the carrier originated the system.

Mr. SIMS. It is not a compelling arrangement?

Mr. SHAUGHNESSY. No; it is, as before stated, determined by the carriers themselves, but it is predicated upon the ground that it would be beneficial to the producing and shipping public in furnishing them the widest market possible for their products.

The CHAIRMAN. And also beneficial to the consuming public?

Mr. SHAUGHNESSY. Yes, sir.

The CHAIRMAN. By widening the area of the consumption?

Mr. SHAUGHNESSY. Yes, sir.

Mr. SIMS. I am not at all controverting that fact, but I am trying to get at the operating revenues and operating expenses of the railroads. They claim their expenses are ever on an increase for some reasons.

Mr. SHAUGHNESSY. Yes, sir.

Mr. SIMS. On account of the cost of labor and material. But I want to know if it is not a fact that on the part of a through shipment from the Pacific coast, through Denver to Boston and New York, if their expenses are not increased to the extent of all additional expenses incurred in taking that freight through that blanket zone of 2,000 miles, is it not, or about?

Mr. SHAUGHNESSY. Well, I would not say it increased their expenses, because each and every carrier participating in the haul gets its pro rata of the \$23 a ton earnings coming off the Pacific coast.

Mr. SIMS. But suppose that these roads did not carry any oranges beyond Denver?

Mr. SHAUGHNESSY. Yes.

Mr. SIMS. But did carry other freight in that long 2,000-mile haul that they did get revenue for, would that not increase the revenues as a whole?

Mr. SHAUGHNESSY. Yes; that is true looking at it in that light, but blanket rates promote the widest and cheapest production and consumption and should be extended to all long-haul interstate traffic.

Mr. SIMS. In other words, they are carrying that freight, or portions of it, 2,000 miles, absolutely for nothing, so far as revenues to the railroads are concerned?

Mr. SHAUGHNESSY. Yes; predicated upon the example that you put there that would be true, but yet that is not comparable with the theories of rate blanketing.

Mr. SIMS. The facts are, generally speaking, that the rates are blanketed all over the country?

Mr. SHAUGHNESSY. Yes, sir; on products of the soil.

Mr. SIMS. Then there are blankets everywhere?

Mr. SHAUGHNESSY. Yes, sir.

Mr. SIMS. In other words, then, they establish arbitrary zones or districts?

Mr. SHAUGHNESSY. Yes, sir.

Mr. SIMS. And the freight rate, regardless of the cost of carrying the freight, the absolute cost, regardless of the expenses, the wear and tear of the machinery, or anything of that sort, the freight rate is one charge clear through?

Mr. SHAUGHNESSY. Yes, sir; the blanket rate covers it all.

Mr. SIMS. So that the ordinary dealer in New York can sell his oranges from California just as cheaply as the man who lives on the western edge of the 2,000 mile blanket?

Mr. SHAUGHNESSY. That is true.

Mr. SIMS. Therefore he does not pay anything for the upkeep of that railroad on that 2,000-mile haul?

Mr. SHAUGHNESSY. Well, I think he does. Of course, he does not in the sense in which you put it, but that is comparable with the postage-stamp rate, where distance is disregarded and all are given an equal rate.

Mr. SIMS. Absolutely; I was going to ask you about that. The railroads, in order to make money at all, must charge such a rate upon all their business as makes it all profitable?

Mr. SHAUGHNESSY. Yes, sir.

Mr. SIMS. That is, taken as a whole. Now, then, such a system of doing business, where is there any reason or common sense in competition of any kind or sort? I mean of inland competition, railway competition among each other?

Mr. SHAUGHNESSY. There should not be any, in my judgment. I think that is a myth and a mistake, and that the antitrust laws in that regard should be loosened up, and the consolidation of railways and traffic agreements should be regulated, but not prevented.

Mr. SIMS. Do you think privately owned property, privately owned business, privately owned public utilities should not be subject to the laws of competition that exist between other private individuals, producers, and business men?

Mr. SHAUGHNESSY. No; competition is wasteful and should not be permitted under an effective system of regulation.

Mr. SIMS. In other words, in public-utility service it should not be controlled by competitive methods?

Mr. SHAUGHNESSY. No; that is my idea of it.

Mr. SIMS. But should be controlled by law?

Mr. SHAUGHNESSY. Yes, sir.

Mr. SIMS. By the agents of Government?

Mr. SHAUGHNESSY. That is it.

Mr. SIMS. As provided by law of the Government?

Mr. SHAUGHNESSY. Yes, sir.

Mr. SIMS. When freight had to go from New York to San Francisco all water, around South America, could it be carried on the whole as cheaply as it can through the canal?

Mr. SHAUGHNESSY. No; not nearly so cheaply.

Mr. SIMS. In other words, the distance has been shortened about 7,000 or 8,000 miles?

Mr. SHAUGHNESSY. Yes, sir.

Mr. SIMS. The canal is built at public expense, is it not?

Mr. SHAUGHNESSY. Yes, sir.

Mr. SIMS. The general taxpayer pays that?

Mr. SHAUGHNESSY. Yes, sir.

Mr. SIMS. Do you think the public taxpayer ought to be called upon to create facilities for a naturally favored point, additional facilities like water terminus; do you think that these facilities should be created out of public taxation and then that part of the very people who pay these taxes, and must pay them until the canal gets to be self-supporting; should these people suffer by an additionally reduced rate from a water point?

Mr. SHAUGHNESSY. No, sir; that is the argument that we make.

Mr. SIMS. You believe, then, that in spending the public money to increase water facilities that the competition growing out of increased water facilities should be prohibited—I mean additional competitive, additional reduced rates, by anything except water-borne commerce, that it should be provided in the act, or in some other way, that no reduction—that is, other than water rates—should take place by reason of this increased water facility, brought about through the expenditure of public money?



Mr. SHAUGHNESSY. Yes, sir; I think that would be wise public policy.

Mr. SIMS. Well, has it not been, to some extent at least, the argument presented to Congress almost continuously that water routes should be so improved as to furnish the greatest amount of competition to the railroads so as to force the railroads by using the taxing power of the country to reduce their rates to competitive water points?

Mr. SHAUGHNESSY. Yes; that has been the argument, but the money expended has not developed water transportation.

Mr. SIMS. So, then, you think that all water competition that is created chiefly for the purpose of reducing railroad rates is uneconomic, illogical, and unjust to the people as a whole?

Mr. SHAUGHNESSY. Yes, sir; that is our position, Mr. Sims.

Mr. SIMS. Is it not a just and proper position?

Mr. SHAUGHNESSY. It is, I think, absolutely so, and I have endeavored to demonstrate this fact in my statement.

Mr. SIMS. The Illinois Central runs from Chicago to New Orleans. It touches the Mississippi River at certain points. Now, if the Mississippi River should be so improved as to enable river-borne commerce between competitive points on the Illinois Central to be carried at greatly reduced rates, then will it not have to increase its rates to portions of its territory where this water competition does not exist, unjustly, unreasonably, and unfairly?

Mr. SHAUGHNESSY. It would if it wanted to continue making the same amount of earnings. If necessary to make the same amount of earnings, they would probably pursue that policy. But that is the very thing, I think, which should not be permitted.

Mr. SIMS. How are you going to keep Congress from doing as it pleases where it has jurisdiction?

Mr. SHAUGHNESSY. I do not know.

Mr. SIMS. Do you not think there have been vast sums of money spent to bring about merely potential water competition where none really resulted? I mean in the improvement of rivers especially?

Mr. SHAUGHNESSY. That is possibly true; but I do not know of my own knowledge, Mr. Sims.

Mr. SIMS. Did you ever examine the effect of the money spent on the Trinity River in Texas?

Mr. SHAUGHNESSY. No; but I have heard about it.

Mr. SIMS. I will not ask you that if you have not examined it at all. That is all.

Mr. ESCH. There are just one or two questions. On the commerce from the Pacific coast and intermountain country, which is blanketed east of the Denver line, is the right of diversion granted to that traffic?

Mr. SHAUGHNESSY. I am not sure. I should have to look that up.

Mr. ESCH. Is it not true as to oranges and citrus fruits?

Mr. SHAUGHNESSY. I think it is true as to oranges.

Mr. ESCH. That is a valuable right.

Mr. SHAUGHNESSY. Yes; that is true.

Mr. ESCH. Do you think it a wise, economic policy for the Government, after it has invested \$400,000,000 in the construction of the Panama Canal, to seek to get a revenue from the use of the canal sufficient to pay operating expenses and interest on cost, if thereby

the continental rail rates would have to be reduced, or they lose the traffic from coast to coast?

Mr. SHAUGHNESSY. Well, I think in that connection that the water carriers should be permitted to participate in the movement of domestic traffic from the Atlantic coast to the Pacific coast and from the Pacific coast to the Atlantic coast, reasonably, and that the rates of the transcontinental rail carriers should not be permitted to be reduced to a point that would put them out of business, put the water carriers out of business.

Mr. ESCH. And, on the other hand, you would not want the rates fixed as to put the rail carriers out of business?

Mr. SHAUGHNESSY. No, I think that might very wisely be handled by the governmental departments, the Interstate Commerce Commission on one hand and the Shipping Board on the other, fixing rates that will be fairly satisfactory to both the water lines and to the rail lines, and at the same time not discriminate at interior points.

Mr. ESCH. To the end that both might live?

Mr. SHAUGHNESSY. Yes, sir; to the end that both might live and prosper.

Senator CUMMINS. Then the water rate would have to be a minimum rate in order to accomplish that?

Mr. SHAUGHNESSY. The rail rate, did you say?

Senator CUMMINS. No, if you regulate the water transportation so that it will not drive the railroads out of business, there would have to be prescribed a minimum rate as well as a maximum?

Mr. SHAUGHNESSY. Yes, that is true; I think you are right on that. I think that would be wise. I think it would also be wise in affording protection to the water carriers, who do go into the business, and who, after the expenditure of a great deal of money, perfect a very high grade of water service between the two coasts—now, then, the establishment of a minimum will give to such a carrier the protection to which he should be reasonably entitled and keep from the service the so-called tramp steamers and others that jump in and jump out of the established trade, at unreasonably low rates, thus disrupting the regular service.

Mr. ESCH. Do you not think that the superior character of the rail service will give to the railroads a fair proportion of the business, even if the water carriers are permitted to take care of themselves?

Mr. SHAUGHNESSY. Yes, I really do, Senator; there is no question about that. The superior facilities of the railways and their opportunity to reach industrial and warehouse tracks and do the switching of the traffic right direct to and from industries and commercial houses, which the water carriers can not do, gives the rail carrier a very decided advantage from a service standpoint. But if the railways can not meet water competition without long and short haul rates, the traffic should go to the water carriers, because that should be the distinguishing line between what is rail and water traffic.

Mr. SIMS. I forgot one question I want to ask about the steel car. Should not the passengers who ride in a steel car, on account of its supposed insurance feature, its greater protection, greater safety, why should they not pay for that just the same as insurance comes in any other way? Why not keep the steel car and let those whose lives and limbs are saved by it pay for it like they would for any other sort of insurance?

Mr. SHAUGHNESSY. That is one way; that leads to the question of classification of passenger traffic.

Mr. SIMS. Increase the rates wherever the expense of the service is increased.

Senator CUMMINS. Do you know any practical way in which you could get a passenger to ride on a steel car or a wooden car?

Mr. SIMS. If you are going to carry both on the same train?

Senator CUMMINS. It would be worse than to have the entire train wood to put the steel cars in the same train.

Mr. SIMS. They have whole trains of steel coaches.

Mr. ESCH. That would double the equipment and increase the cost.

Mr. SHAUGHNESSY. The question comes back to preventing the collisions. Unless this is done, frightful losses of life will continue because of collisions between through all-steel car trains and local wooden-car trains. The order of the Interstate Commerce Commission excluding the wooden car from the steel-car trains affords protection to these trains, but none at all to the local wooden-car train, both of which are operated over the same tracks. Railroad officials, engineers, and trainmen are the most exacting disciplinarians and the closest observers of rules and regulations to be found in any line of industry, but of course they are not infallible. Surprise tests made against train and engine men show a 100 per cent observance of danger signals over long periods, but the time comes when, through human fallibility of one kind or another, there is a nonobservance and there is a collision and scores of lives are snuffed out. No time should be lost in passing and enforcing an "automatic train stop" law. Its adoption will supplement our present highly trained and efficient railway operating forces and afford the maximum of safety from collisions, while at the same time paying for itself many times over in the saving effected in loss of life and property.

The CHAIRMAN. Mr. Doremus, have you any questions?

Mr. DOREMUS. Yes, sir. I take it that in the answer you made to Mr. Esch's questions, you are not in favor of eliminating water competition?

Mr. SHAUGHNESSY. No; I am in favor of promoting it in every legitimate way, and of preventing the rail carriers from destroying it as they have in the past.

Mr. DOREMUS. You do not believe that from a commercial and economic point of view, our investment in the Canal is an unwise one, do you?

Mr. SHAUGHNESSY. I think it was wise; I think it was exceedingly wise, and slow moving low rate domestic traffic should move through it freely from coast to coast, without the restriction of long-and-short-haul rail rates.

Mr. DOREMUS. As a general proposition you would favor the healthy stimulation of water transportation, would you not?

Mr. SHAUGHNESSY. Yes, sir; that is our position.

Mr. DOREMUS. I think that you said the rail rates on oranges from Los Angeles, or other Pacific point, to Boston, is the same as the rate from the Pacific coast point to Denver?

Mr. SHAUGHNESSY. Yes, sir; that is true.

Mr. DOREMUS. That it was \$1.15 a box?

Mr. SHAUGHNESSY. One dollar and fifteen cents a hundred, or \$23 a ton.



Mr. SIMS. It is not by the box?

Mr. SHAUGHNESSY—No; by the hundred.

Mr. DOREMUS. Then it would cost no more to haul a box of oranges from the Pacific coast to Boston than from the Pacific coast to Denver?

Mr. SHAUGHNESSY. No, sir; figured on the average, the cost would be the same.

Mr. DOREMUS. And that low rate from the Pacific coast to Boston, as I gather it from your testimony, is to enable the producers in California and other Western States to meet the Australian competition?

Mr. SHAUGHNESSY. That would be so on wool. That was on wool but not on deciduous fruits.

Mr. DOREMUS. No; I have reference to wool.

Mr. SHAUGHNESSY. Yes.

Mr. DOREMUS. That being so, is it not fair to assume that the people of Denver, of that section of the country, are penalized in order to enable the producers of the West to meet the Australian competition?

Mr. SHAUGHNESSY. Yes; that is the answer to that, that the wool producers at interior points are penalized, I do not know how much, but they bear the burden of the difference which lies somewhere between the \$20 and the \$38 rates which would be represented by a reasonable rate if the discrimination was removed and the charges made uniform.

Mr. ESCH. You were discussing the Shreveport case and the water traffic in the South, especially on the Mississippi?

Mr. SHAUGHNESSY. Yes, sir.

Mr. ESCH. I think you cited figures, namely, that whereas 10 years ago the water-borne traffic on the lower Mississippi was 600,000 or 800,000 tons——

Mr. SHAUGHNESSY. Eight hundred and some odd thousand.

Mr. ESCH. In the last year you cited it had been reduced down to 87,000 tons?

Mr. SHAUGHNESSY. Yes, sir.

Mr. ESCH. And you deduce from that fact that the commission should therefore ignore water competition in that region, just as it ignores water competition now on the coast?

Mr. SHAUGHNESSY. Yes, sir; that is my position.

Mr. ESCH. And therefore the long and short haul clause should be made effective in that region?

Mr. SHAUGHNESSY. Yes, sir; that is my deduction. And, going further there, I wished to exemplify in a general way the entire Southern States situation, which is in substantially the same condition along the Mississippi River and the Gulf of Mexico, so far as the long and short rates are concerned.

The CHAIRMAN. I want to ask you just a few questions. What was your position before you became a member of the Nevada State Railroad Commission?

Mr. SHAUGHNESSY. My occupation has been that of a railroad man—a practical railroad man.

The CHAIRMAN. How long were you in that business?

Mr. SHAUGHNESSY. I followed it for 15 years prior to the time I went on the railroad commission of Nevada and have been on the railroad commission of Nevada during the past 10 years.

The CHAIRMAN. You were at one time assistant superintendent, I believe, of the Southern Pacific Railroad?

Mr. SHAUGHNESSY. I was assistant superintendent of the Southern Pacific Co. in Nevada for about three years.

The CHAIRMAN. Does the same system prevail with reference to the transportation of products from the intermountain region to the East that prevails from the East to the intermountain region with reference to the long and short haul?

Mr. SHAUGHNESSY. No; there is a marked difference there. On the eastbound movement we have the advantage of the blanket rate on practically all products to all eastern markets, but on westbound products, why, we suffer the long and short haul differential.

The CHAIRMAN. Now, on eastbound traffic, are there any places between Nevada, we will say, and New York to which there is a larger charge for the transportation of products from Nevada to those points than there is to New York?

Mr. SHAUGHNESSY. No, sir. Take it on eastbound traffic——

The CHAIRMAN. Then with reference to eastbound traffic there is no discrimination?

Mr. SHAUGHNESSY. No, sir; except as to wool.

The CHAIRMAN. Such as you complain of with reference to westbound traffic?

Mr. SHAUGHNESSY. That is true, the eastern shippers and consumers of Indiana, Ohio, Pennsylvania, and New York, intermediate to the Atlantic coast terminals are not burdened with back haul charges on eastbound traffic, such as we are subjected to on westbound traffic.

The CHAIRMAN. Now, with reference to the cost of passenger transportation, the tremendous weight of the interstate trains, is their weight in excess of the purely State trains, or the trains that mainly accommodate local traffic?

Mr. SHAUGHNESSY. Yes; that is true. The trains that are used for the local State traffic, where separate trains are run, usually utilize the older equipment, and that is made up of the old type wooden cars, including steel underframe cars, and is therefore much lighter than the all-steel equipment trains used for interstate service.

The CHAIRMAN. It is lighter both as to the passenger cars and the engine, is it not?

Mr. SHAUGHNESSY. Oh, yes; much lighter.

The CHAIRMAN. And your contention is there is less dead-weight carried to each passenger in that case?

Mr. SHAUGHNESSY. Yes, sir.

The CHAIRMAN. The reason why those rates should be purely in domestic control——

Mr. SHAUGHNESSY. Yes; that is one of the reasons, sir.

The CHAIRMAN. But almost all the interstate trains, of course, carry purely State passengers, do they not?

Mr. SHAUGHNESSY. Yes, sir; that is true. It is growing that way much more all the time. The interstate trains are being used as a medium for the handling of local traffic within the various States, wherever it can be done advantageously. While the average is six cars, there are many trains much larger than that; they carry 10, 12, and 14 cars.

The CHAIRMAN. Have you ever inquired as to the character of these trains that carry passengers in England and in Europe at comparatively low rates?

Mr. SHAUGHNESSY. As to the equipment?

The CHAIRMAN. Yes.

Mr. SHAUGHNESSY. Well, my information on that, discussing it with men who have been in Europe, is to the effect that passenger cars run from 15 to 25 tons, and the engines in proportion, and that the service is given conveniently and economically. Those lighter trains necessarily can be operated very cheap and more cheaply, proportionately, than the all-steel extra-heavy trains that we have. I think we have gone entirely too far in the matter of weight. We can obtain the same ends in the matter of safety, and do it much more economically, I am sure. I am sure there is a large field for improvement there.

The CHAIRMAN. It would lead to a classification of passenger rates, would it not—first, second, and third class?

Mr. SHAUGHNESSY. Well, that has been discussed.

The CHAIRMAN. You think that would be acceptable to the American people, do you?

Mr. SHAUGHNESSY. I do not know, Senator. No one can tell in the absence of a trial just how the public would accept it, and it might require considerable effort to educate our people up to that scheme, the same as they have in England, where they have first, second, and third class traffic, and where practically all the traffic of England travels second class.

Mr. SIMS. The same in France and Germany, too, is it not?

Mr. SHAUGHNESSY. Yes, and those who need a cheap service secure it by traveling third class. A sufficient classification for this country might be established by a reduction in the fares for day coach service as distinguished from Pullman car and other higher grade train services. This seems reasonable because of the difference in the space and conveniences furnished and the necessity for low fares to meet the changes which are rapidly taking place in the art of transportation. From an operating and service standpoint there is just as much reason for a classification of passenger service as there is for freight service, because of the different character of facilities and services that are furnished.

The CHAIRMAN. As I understand it, so far as this long and short haul is concerned, you wish the law itself to authorize and require the same practice with reference to westbound traffic supplying the intermountain region that is now applied by railroads to eastbound traffic, originating in the intermountain region and supplied to the western and middle west, and the Atlantic coast regions, is that it?

Mr. SHAUGHNESSY. Yes, Mr. Chairman, that is our position exactly.

The CHAIRMAN. As to this blanket system that you have referred to, regarding oranges, for instance. The effect of that system is to enable the people east of Denver to get these fruits at as reasonable a rate as the people of Denver, is it not?

Mr. SHAUGHNESSY. Yes, sir; that is true.

The CHAIRMAN. It widens, therefore, the area of consumption of California products?



Mr. SHAUGHNESSY. Yes; it promotes a market for a larger amount of produce; the one leads to the other, of course.

Mr. SIMS. Is the rate on oranges all water to New York or Boston and Atlantic ports and then inland back to Denver the same that it is directly from the Pacific ports to Denver?

Mr. SHAUGHNESSY. I do not believe that they have yet begun to handle any of the fresh fruits by water.

Mr. SIMS. Or any of the other products to which this particular rate applies, whether fruit, lumber, mineral products, or anything else?

Mr. SHAUGHNESSY. What is the question on that?

Mr. SIMS. Is the all-water route, I mean through the canal to New York, say, on lumber from San Francisco all water to New York, then the same lumber sent back to, say, west of the Mississippi River or to Denver, would the water haul from the Atlantic to its termination be the same as it is from the Pacific port all rail to Denver, or the blanketed portion that they carry?

Mr. SHAUGHNESSY. No. Take lumber handled from the Pacific coast territory to the Atlantic coast and then shipped by rail inland, it pays the water rate to the Atlantic terminal plus the local rate inland from the Atlantic coast, whatever that may be, and that would meet the rail rate somewhere out in the interior, probably around Buffalo; you might be able to get back as far as Buffalo with that lumber that went around by water and thence by rail inland, but no variation is made in the all-rail charges coming across, none is made because of that fact on east-bound traffic.

Mr. SIMS. Then there is a portion of this blanket covered by the rate you speak of that is not water compelled?

Mr. SHAUGHNESSY. Yes, sir.

Mr. SIMS. That is the point I want to get at.

The CHAIRMAN. I will state that Senator Bristow will proceed to-morrow morning at 10.15 o'clock.

Mr. ESCH. I received during the course of our hearings certain documents containing the views of competent people on some of the problems presented to us, and I should like permission to have them printed as part of our record, as I think they will be valuable.

The CHAIRMAN. What communications are they?

Mr. ESCH. One from a Massachusetts organization; one from Glen B. Winship, formerly editor of one of the large financial journals of New York; another containing the views of the Business Men's League of St. Louis, and—

The CHAIRMAN. I just wanted to classify them. That order will be made and the clerk will insert them.

(The documents are as follows:)

FARMERS' EDUCATIONAL AND COOPERATIVE UNION OF AMERICA,

*Many, La., October 30, 1916.*

DEAR SIR: I am advised that you will soon have a meeting of your committee to consider railroad regulations, and no class of citizenship are really as much concerned and interested in this complicated subject as farmers, and during the last few years some of our members have taken an active interest in traffic matters greatly to the benefit of the farmers.

Our marketing committee has now been made a traffic committee as well, and I ask that you please read over inclosed resolutions carefully, as they were adopted after due deliberation by the Farmers' Union of Louisiana, Oklahoma, and Texas, and I ask that these resolutions be made a part of the records of your committee.

At a hearing before the Senate Committee on Interstate Commerce held on June 30, 1916, I am advised that Railroad Commissioner E. B. Mayfield, of Texas, stated that the farmers didn't know anything about traffic matters, and had not given the subject any thought, and I understand he also boasted that he was a member of the Farmers' Union; but I beg to say that he had no authority to speak for the Farmers' Union on this subject, but Mr. N. R. Dorsey, of Henderson, Tex., who was present at the hearing, did have authority to speak for the Farmers' Union, and these resolutions show that Mr. Earl B. Mayfield didn't know what he was talking about when he asserted that the farmers had not given any thought to this subject.

Members of the Farmers' Union of Texas adopted the resolution signed by J. C. Chapman as secretary, and others, in February, 1914: the Louisiana Farmers' Union, that signed by J. M. Davis, chairman, and others, in July, 1914, and the Oklahoma Farmers' Union adopted the resolution signed by O. W. Taylor, and others, in January, 1915.

We are not in favor of any legislation which will curtail the power of the Interstate Commerce Commission, and hope you will give due consideration to our view in your deliberations, and I await your reply.

Respectfully,

I. N. McCALLISTER,  
*President for Louisiana Union, and chairman of the  
Marketing and Traffic Committee of the Associated State Presidents.*

Hon. JOHN J. ESCH,

*Newlands Joint Committee to Consider Railway Regulations, La Crosse, Wis.*

[Resolution No. 2.]

Whereas in order to get proper results in the sale of our farm products, we farmer must organize and cooperate and look after for ourselves, matters relating to financing and transportation and distribution of farm products; and

Whereas it will be impossible for us to obtain proper prices for ourselves and at the same time to protect the consumers in the purchase of farm products unless we are in a position to reach the consuming masses in other States, and we can not reach the consumers of other States without adequate and equitable transportation facilities; and

Whereas at a recent meeting of the State Railroad Commissioners in the city of Washington, D. C., they adopted a resolution asking Congress to pass a law forbidding the Interstate Commerce Commission to interfere with any rate which a State railroad commission might make; and

Whereas such a law would very seriously interfere with some efforts and plans which contemplate in order to reach more markets with our farm products; and be it

*Resolved*, That we oppose the passage of any law by the United States Congress which will interfere with the Interstate Commerce Commission giving us ample protection on any rate which we may secure from transportation companies, and we, The Oklahoma Branch of Farmer's Educational and Cooperative Union of America, in call session at Ada, Okla., on January 28, 1915, oppose any such law and request our United States Senators, Robert L. Owen and Thomas P. Gore to look after our interests and protect us in this respect, and the secretary be instructed to send a copy of this resolution to them with the request that they see we are fully protected.

Adopted:

(Signed) C. J. MOORE,  
*Chairman Committee.*  
(Signed) H. T. MORTON,  
*Secretary Committee.*  
(Signed) DAVID FOLSOM,  
*Member Committee.*  
(Signed) O. W. TAYLOR,  
*President Oklahoma Farmer's Union.*  
(Signed) H. T. MORTON,  
*Secretary Oklahoma Farmer's Union.*

Whereas, if farmers get the results to which they are entitled in the sale of their farm products we must take into our own hands the matters of traffic, financing, and distribution and sale of our farm products; and

Whereas we can only achieve best results in such sales by mastering the above details and cooperating with legitimate business interests; and

Whereas of recent years we have succeeded in being greatly benefited by cooperating with transportation and other business interests and which interests have

shown a willingness to cooperate with us and we have secured advantageous rates to points outside of Louisiana which has resulted in our getting increased prices for some farm products; and

Whereas we noticed in the press reports that at a recent meeting of the State Railroad Commissioners' Association in Washington, D. C., a resolution was adopted asking Congress to pass a law which would forbid the Interstate Commerce Commission from interfering with any rate which might be fixed by a State railroad commission within a State; and

Whereas if Congress should pass such a law it would prove against the interests of the farmers as we want to be free to ship our products to any point outside of the State where we can get better prices and also to purchase our supplies either from points within the State or from points outside of the State and be in position to buy where it might be cheaper and to our interests.

*So be it resolved by the Louisiana Branch of the Farmers' Educational and Cooperative Union of America,* That we oppose Congress passing any law that will interfere with the rights of the Interstate Commerce Commission and give them full authority to act as they did in the *Shreveport Rate Case* and which action has been upheld by the Supreme Court of the United States, and which was in favor of the farmers, and the secretary be instructed to send a copy of this resolution to Brother O. W. Taylor, president, Oklahoma Farmers' Union, at Roff, Okla., and to Brother W. D. Lewis, president of the Texas Farmers' Union, Fort Worth, Tex., with the request that they take similar action and a copy to each of our worthy Senators, Hon. Joseph E. Ransdell and Hon. John R. Thornton, with the request that they see that our rights are protected.

(Signed)

J. M. DAVIS, *Chairman.*

I. N. MCCOLLISTER, *President.*

J. M. DAVIS, *Vice President.*

MINNIE CARRON, *Secretary.*

R. LEE MILLS, *Chairman Executive Committee.*

S. B. DAVID, *Secretary Executive Committee.*

J. H. CRAIG.

H. A. MORGAN.

Whereas the net profit derived from farming, as declared by reliable statistics, is not more than 3 per cent; and

Whereas the constantly increasing burden of the State, county, and municipal indebtedness, the ever increasing governmental expenditures, are daily tending to reduce even this pitiable and uncertain profit, and it seems that the limit in the way of exploiting the farmer has about been reached; and

Whereas at a national meeting of the State Railroad Commissioners recently held in Washington, D. C., a resolution was adopted asking Congress to tie the hands of the Interstate Commerce Commission in the matter of intrastate rates, and citing the *Shreveport Rate Case* as an instance of so-called aggression on the part of the Interstate Commerce Commission;

Whereas our cotton ports committee has frequently pointed out that the interstate rates complained of by Shreveport jobbers, and corrected by the decision of the Interstate Commerce Commission and the United States Supreme Court, which decision the National Association of State Railroad Commissioners now seek, by applying to Congress, to overturn and prevent in the future, was a flagrant injustice to the consumers of Texas and an outrage on the public, inasmuch as it made an artificial barrier of a State boundary, an imaginary line, and prevented merchants outside that line, when our Texas Railroad Commission itself strongly intimates could undersell Texas jobbers in Texas markets, from selling in Texas.

The result of that unjust discrimination is to force the consuming public in Texas to buy from Texas jobbers, who, according to the official records of our State railroad commission and of the Shreveport case, can not sell as cheaply as those jobbers outside the imaginary line, so that by reason of this unjust discrimination, the Texas farmers, and all Texas consumers, were forced to pay a higher price for the necessities of life, when otherwise they might have bought more cheaply from others.

The records of our State railroad commission show that they have adopted the policy of protecting the "Texas jobber and manufacturer" and it is undeniable that the discriminating rate condemned by the Interstate Commerce Commission did "protect Texas jobbers" and did so at the expense of Texas consumers.

Are the hundreds and thousands of Texas farmers and the vast army of women and children toiling in the Texas cotton fields, as well as the vast body of urban labor, many thousands of whom are out of employment and some of whom have even been forced to accept public charity, to be subjected to such unjust and senseless exploitation, merely, forsooth that a commercial trust may be organized, based on a species of protection, arising from an unjust and discriminatory freight rate?



If so, let us canonize Capt. Kidd and Black Dick Turpin, and let us hear no more of the "Robber Barons of the East," supposed to fatten on a protective tariff, no more unjust, and not so insulting to the intelligence as this.

*So therefore be it resolved*, That we heartily indorse the action of the Interstate Commerce Commission in loosening the hold of this trust on the throats and pockets of our people, by their decision in the Shreveport Rate case, and we ask Congress not to abridge the Interstate Commerce Commission's power to remedy unjust local conditions, merely to please petty political warriors, vain of the tinsel and trappings of office, proud of their little brief authority, and who bask happily in the reflected ray of their own official glory; and we ask Congress to consider that these warriors' only interest in this matter is to enlarge the scope of their authority for the brief time they will occupy the public stage, while with the vast multitude of farmers and consumers it is a question of existence itself.

*Resolved further*, That a copy of this resolution be given to the press and that the secretary forward it to our United States Senators, Hon. C. A. Culberson and Hon. Morris Sheppard.

(Signed) J. C. CHAPMAN, *Secretary.*

(Signed) LOUIS GARMS, Bangs, Tex.

*For Pecan Valley District Farmers' Union.*

F. A. GRIMBERG, Lone Oak, Tex.

*For Northeast Texas District Farmers' Union.*

N. R. DORSEY, Hendreson, Tex.

*President Northeast Texas District Farmers' Union.*

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS,

*October 31, 1916.*

Mr. JOHN J. ESCH,

*Member of the Joint Committee on Interstate Commerce, Washington, D. C.*

SIR: I have the honor to send you herewith copy of a resolution unanimously adopted to-day by the executive committee of the Business Men's League of St. Louis urging that the powers of the Interstate Commerce Commission be enlarged.

With great respect, I am,

Very truly, yours,

W. F. SAUNDERS,  
*Secretary and General Manager.*

Whereas improvement of existing railways and construction of new railway lines have been seriously retarded; and

Whereas upon Congress rests in the main the burden of reorganizing the system of supervision over railways; Be it

*Resolved by the Business Men's League of St. Louis*, That the act to regulate commerce shall be so amended as to confer upon the Interstate Commerce Commission absolute authority over all rates and regulations which affect interstate commerce, whether such rates apply to interstate or intrastate shipments, and that in the event of conflict of jurisdiction between the Interstate Commerce Commission and the railway commissions of the several States that the jurisdiction of the Interstate Commerce Commission shall be supreme; and

*Be it further resolved*, That the Interstate Commerce Commission shall be empowered to fix minimum as well as maximum rates; and

*Be it further resolved*, That Congress should by statute declare it the policy of the Government to assure such revenue to the railroads as will enable them to perform service adequate to the needs of the country and to attract capital sufficient for necessary improvements and extensions; and

*Be it further resolved*, That the Interstate Commerce Commission be immediately so reorganized that it may be able to accomplish efficiently all of the work which properly comes before it.

COURTEEN SEED CO.,  
*Milwaukee, January 31, 1917.*

JOHN J. ESCH, Esq.,

*House of Representatives, Washington, D. C.*

MY DEAR SIR: Please allow me to express my appreciation of your very courteous letter of the 15th instant. Unfortunately, I have had very little experience in speaking before any public body, and doubt if could express myself sufficiently concise and lucid.

However, thought you might be interested in the fact that the board of directors of our chamber of commerce appointed me on a committee to draw up a series

resolutions for our board of directors' consideration, so that they might pass on same, and at the same time hand them to the president of our exchange to be laid before the United States Chamber of Commerce, at the present session now being held in Washington; and am taking the liberty of attaching herewith a copy of said resolutions, which were passed unanimously by our board of directors and which at the present time our president has with him in Washington for the purpose above mentioned, namely, laying before the present session of the United States Chamber of Commerce now being held in your city.

Meantime, believe me,

Yours, very respectfully,

S. G. COURTEEN.

Whereas throughout all parts of the United States there is an almost complete paralysis of business in certain lines, amounting to actual suffering in some instances, and a more or less complete demoralization in other lines, resulting largely from lack of railway equipment, motive power, cars, and terminal facilities, directly traceable in many instances to hostile legislation to the railroads by the various States, and to many adverse decisions by State commissions, thereby depleting their revenues and reducing their credit to such an extent that they are hampered in the purchase of equipment and terminal facilities adequate for handling all freight and passenger business economically and expeditiously: Now therefore,

*Be it resolved*, That it is the sense of the board of directors of the Chamber of Commerce of the City of Milwaukee, working in conjunction with the Chamber of Commerce of the United States of America, that the President of the United States and the Newlands committee, which has under consideration remedial legislation for the betterment of railroad conditions throughout the country, be advised that the business interests of the country are sustaining enormous losses by reason of the inadequate facilities of the railroads, for the causes above shown. And further, that it is the opinion of this body that the greatest benefit to the Nation as a whole will result from the policy of permitting the railroads of the country to earn not only a fair return on the capital invested but a large enough return to attract additional capital, which is necessary for the roads to be placed in a position to cope with the continually increasing business demands.

*Be it further resolved*, That it is the sense of this body that the Congress of the United States be impressed with the necessity of conferring additional power on the Interstate Commerce Commission, by providing for the complete regulation and control of all rates, both freight and passenger, throughout the United States by that commission, for the purpose of placing the entire scheme of the control and regulation of the railroads under one body, in order that the interests of the carriers and the public alike may receive such consideration as necessity from time to time demands, unhampered by State regulations.

MASSACHUSETTS STATE BOARD OF TRADE,

Boston, Mass., January 27, 1917.

DEAR CONGRESSMAN: Inclosed please find resolutions passed unanimously at the mass meeting of business men held in Springfield, Mass., at the auditorium, on the afternoon and evening of December 28.

His Excellency, Gov. Samuel W. McCall, presided. President Henry G. Wells, of the Massachusetts Senate; Dr. Victor S. Clark, of the Carnegie Institute of Washington, Washington, D. C.; and John F. Tobin, of the American Federation of Labor, were some of the prominent speakers.

Appreciating your interest in the problem of transportation, and knowing that you will give full value to the expression of the business men of Massachusetts, I am,

Sincerely, yours,

MASSACHUSETTS STATE BOARD OF TRADE,

GEORGE A. FIEL, *Secretary*,

10 High Street, Boston, Mass.

Preamble and resolutions favor Federal regulation of railway rates, interstate and intrastate Federal control of railway securities issues. Proposed railway strikes or lockouts should be subject to investigation by the Interstate Commerce Commission.

The New Haven should retain control of its boat lines.

Favor increase of Interstate Commerce Commission membership to nine.

The Massachusetts State Board of Trade, comprising 53 commercial bodies, representing a membership of 15,000 substantial business men, in convention assembled at Springfield, December 28, 1916, preamble the Congress and the President of the United States as follows:

Within the past few years the banking laws of the country have been thoroughly remodeled and a central agency established whereby the merchandising of credit

has been put upon a sound economic basis and the incongruities of the past done away with.

Not so with the railways. They are subject to 49 masters—the Federal Government and 48 individual State governments. Despite the fact that the railway business has grown essentially national in scope, railway regulation has remained local in character. It is true that the Government, through the Interstate Commerce Commission, controls the railways in so far as interstate traffic is concerned, and that State regulative commissions assume control merely of intrastate business. But the distinction between the two—interstate and intrastate—has become more artificial than real, and serious conflicts have become more and more frequent.

Probably the most serious charge to be made against the dual system of regulation as employed in the United States is its inefficiency. It is unnecessarily costly, both to the Government and the railways, and consequently to the people. Conflicting regulations and laws are passed by the various States through which the railways run, and it is often difficult, and sometimes impossible, for a railway to obey the law of one State without conflicting with the regulations of another. A prodigious waste of energy has resulted, and a corresponding loss of power to serve the public.

The railways and the public suffer from present conditions. Railway development has come to a standstill practically. The future of the country, and particularly during the next few years, demands a more enlightened policy. In the interest of New England, as well as in the interest of the whole country, we offer the following:

*Resolved by the Massachusetts State Board of Trade in convention assembled in the city of Springfield, December 28, 1916,* That the act to regulate commerce shall be so amended as to confer upon the Interstate Commerce Commission final authority over all rates and regulations which affect interstate commerce, whether such rates apply to interstate or intrastate shipments; and that in the event of conflict of jurisdiction between the Interstate Commerce Commission and the railway commissions of the several States, that the jurisdiction of the Interstate Commerce Commission shall be final and conclusive.

*Resolved,* That in order to attract the necessary capital and to provide for the development of transportation facilities to meet the rapidly growing commercial needs of the country, and to develop its resources, Congress should enact such legislation as will restore the confidence of the investing public and guarantee the transportation service required to meet the needs of the public, and that this confidence can only be secured by giving to the Interstate Commerce Commission final and conclusive authority in the matter of issuance of all railway securities.

*Resolved,* That we favor an increase in the membership of the Interstate Commerce Commission from seven to nine members, as provided for in the bill which has passed the House of Representatives and is now before the United States Senate for final passage. The Interstate Commerce Commission, in a report just submitted to Congress, says:

"The New York, New Haven & Hartford Railroad system is made up of various formerly independent lines of rail and water carriers. By purchases and consolidations the New Haven Co. has become the owner of various water lines, operated mainly between New England points and New York Harbor, which compete directly with its rail lines between the same points. There is no question as to the competition but the record is replete with evidence from shippers and representatives of communities in New England to the effect that the service is in the interest of the public is of advantage to the convenience and commerce of the people, and if the present ownership and operation is discontinued there will be no reasonably adequate service to take its place and the communities will be deprived of the benefits of the water transportation and the competing routes, thus inflicting irreparable injury and benefitting no one.

"We think that these facts should be brought to the attention of the Congress, so that in the light of those facts it may determine whether or not authority shall be conferred upon the commission to permit, in such cases and under such circumstances, a continuance of the railroad ownership, control or operation of the water lines, subject to such further and different orders as the commission may subsequently enter upon a further hearing and a showing of substantially changed circumstances and conditions."

There is no need to add to the statement of the Interstate Commerce Commission, which discloses that the sentiment of the New England public is in favor of "giving to the Interstate Commerce Commission the power to continue the present situation of railroad control both of the Sound lines and the Lake lines as well." Therefore, be it

*Resolved,* That the Massachusetts State Board of Trade urge the Congress to pass the following amendment to the fourth paragraph of section 5 (as amended Aug. 24, 1912), of the act to regulate commerce, as follows:



If the Interstate Commerce Commission shall be of the opinion that any such existing specified service by water other than through the Panama Canal is being operated in the interest of the public and is of advantage to the convenience and commerce of the people, or that such extension will neither exclude, prevent, nor reduce competition in the route by water under consideration, the Interstate Commerce Commission may, by order, extend the time during which such service by water may continue to be operated beyond July 1, 1914.

*Resolved*, That a copy of this preamble and these resolutions be forwarded to each Member of the House of Representatives and the United States Senate and to the President of the United States.

(Signed) JOHN H. CORCORAN,  
*Chairman.*

Other members of committee on resolutions as follows: William Henry Gleason, Winchester, Mass., representing associated industries; Joseph Wing, Brookline, Mass., representing National Wool Manufacturers' Association; George F. Willett, Norwood, Mass., representing Norwood Board of Trade; Hon. Frank E. Stacy, Springfield, Mass., representing Springfield Board of Trade; F. Alexander Chandler, Boston, Mass., representing New England Hardware Dealers' Association; George L. Avery, Framingham, Mass., representing Framingham Board of Trade; George C. Morton, Boston, Mass., representing Paint and Oil Club of New England.

COURTEEN SEED CO.,  
*Milwaukee, January 13, 1917.*

Congressman J. J. Esch,  
*House of Representatives, Washington, D. C.*

MY DEAR SIR: I am taking the liberty of attaching herewith a copy of a telegram sent President Wilson by practically all of the ex-presidents of this exchange.

I am also taking the liberty of inclosing copy of a letter which I wrote to the secretary of the Council of Grain Exchanges, who will have a meeting in Chicago the 18th or 19th of this month.

I think that I can safely say that a large majority of the shippers in this State, especially those residing in Milwaukee, feel that something should be done to reestablish the credit of the railroads. The present intolerable condition has resulted in more direct losses to the business interests of your State than an increase on transportation charges of 5 or 10 per cent would have amounted to in a long period of years inasmuch as any increase in charges would naturally be distributed between the original shipper, intermediary merchant, and the ultimate consumer.

I am confident that anything which you might do to bring forth the reestablishment of the credit of our different transportation lines would meet with the approval and approbation of your constituents.

Yours, truly,

COURTEEN SEED CO.,  
F. G. COURTEEN, *President.*

COURTEEN SEED CO.,  
*Milwaukee, January 11, 1917.*

J. RALPH PICKELL,  
*Secretary Council of Grain Exchanges,  
322 South La Salle Street, Chicago, Ill.*

MY DEAR SIR: I am taking the liberty of attaching hereto copy of a telegram sent President Wilson some few days ago, which is self-explanatory, and would you allow me to express myself further as believing that the large shipping interests of this country in their general attitude toward the railroads have been "penny-wise and pound foolish"?

I do think that this question, one of the most serious at the present time before the business interests of this country, should be brought before the national board of trade and the question thrashed out as to the advisability of getting some definite legislation that would relieve to a certain extent the situation in which the various railroads of this country now find themselves.

There is no question whatever but what the present congestion has been brought about, not only by lack of equipment, but also want of proper terminal facilities at the various large centers; and with the present attitude of our Federal Government toward the railroad corporations, it is preposterous for us to think for a minute that we can get capitalists to furnish funds for said railroad requirements, especially with the present large percentage of the total mileage of the United States in the hands of receivers. It seems to the undersigned that other large systems will ultimately find themselves in the same boat as some of our small roads, unless they are more adequately

recompensed for their services. They have been bulldozed and badger-beaten by practically every State that they have traversed, and it does seem about time that the shippers of the country (who are most vitally interested in getting efficient and prompt service) move themselves, so that the roads may get at least fair play.

How some of our so-called eminent legislators can imagine that such an important part of our commercial body can be on the ragged edge of disaster, and have the remaining portion in a prosperous and flourishing condition, is beyond my comprehension; and believe we need Federal legislation of a comprehensive character to reach a solution that will be fair and equitable to both the railroads and the public at large.

Yours, truly,

COURTEEN SEED COMPANY,  
F. G. COURTEEN, *President*.

His Excellency President WOODROW WILSON,

*White House, Washington, D. C.:*

Permit the undersigned, all ex-presidents of Milwaukee Chamber of Commerce, to call your attention to the deplorable condition of railway transportation at present existing, which has arisen from a multiplicity of circumstances. One of the main causes we believe has been the continued forced economy practiced by the different roads, resulting in a lack of equipment, both motive power and cars, and believe that the whole Nation will be greatly benefited by allowing the roads to earn, not only a fair return on capital invested, but sufficient so that they may cope with the continually increasing business of the country, thus avoiding a repetition of conditions now existing.

Respectfully requesting your consideration,

(Signed)

S. G. COURTEEN.  
W. P. BISHOP.  
W. M. BELL.  
E. J. FURLONG.  
P. P. DONAHUE.  
JAMES A. MANDER.  
CHAS. A. KRAUSE.

MILWAUKEE, Wis., *September 21, 1916.*

Hon. JOHN J. ESCH,  
*La Crosse, Wis.*

FRIEND ESCH: Some years ago I wrote you about a proposition to take care of the problem of railroad strikes and other troubles in connection with the railroads. At that time you wrote me that the plan was not feasible, as while it worked with the marine service, the Government owned the rivers and did not own the railroads. I could not see at that time why that should make any difference and can not yet.

Since that time I have devoted considerable study of the application of some features of the marine law to the railways, and whenever there has been trouble it has seemed to me that it might have been avoided by some regulation of that kind. It seems to me that what is necessary is for the Government to get some hold on the men engaged in interstate traffic so that they can control them to some extent, and I have never heard of a plan that seemed to me to be so effective as to license all such men.

As I found myself with an evening on my hands with nothing else to do, and had a typewriter handy, I have written out a very crude and rough sketch of this plan and am sending it to you herewith for your perusal if you care to give it the time to look it over.

This is a big proposition and one that would have to be worked out very carefully, but it seems to me it is a plan that could be worked out and would be far better than any patch like the Adamson bill. I have discussed this with many men, and find that it impresses many as the most feasible plan. I was talking with Frear about it here one day this week and he thought it was the best he had heard of and could be worked out and suggested that I take it up with you.

I have never lost sight of this idea since I wrote you some years ago in regard to it, and from my study of it I could write you many pages regarding it, but have perhaps written more now than you will care to read. However, if it interests you, I would be glad to talk it over with you. If you care to look it over do so and let me know what you think of it.

I am still here at Milwaukee and will be for several days yet and do not know where I am to go next. Hope to be able to see you at some date not too far in the future.

Yours, respectfully,

J. M. AXTELL, *Sparta, Wis.*

No. 1. Provide for the creation of a board of supervising inspectors of railway transportation, the chairman of such board to be a member of the Interstate Commerce Commission *ex officio*.

This board to consist of three or five members and to have control of all matters arising out of the operation of railroads, qualifications of employees, running of trains, etc.

No. 2. Divide the United States into a sufficient number of inspection districts for convenience and to facilitate the work, and provide for the appointment under the civil service, of two inspectors for each district, to work under the direction of the supervising board of inspectors.

No. 3. Require all railroads engaged in interstate traffic to operate a stated number of trains over each division of their road each and every day, and provide a penalty for failure to operate these trains so large that no money consideration will stop the operation of trains. Require immediate notice to the local board of inspectors of any decision not to operate any specified train with reason for its abandonment, with a written statement of the reason for failure to operate the train given in full within 48 hours.

Reasonable excuses for failure to operate trains would include damage to road by storms, or other causes, and would relieve them of the penalty. Lack of labor would not constitute an excuse. The board of inspectors would decide the case subject to appeal to the supervising board and to the courts.

No. 4. Require every employee of a railroad or common carrier engaged in interstate traffic, who, by his inability, inefficiency, or inattention to duty would endanger the loss of human life to obtain from the local board of inspectors a license to work in the capacity in which he is employed, such license to be granted only after a satisfactory examination as to his qualifications.

This would include conductors, engineers, firemen, brakemen, switchmen, agents, operators, dispatchers, section foremen, signal tower men, etc.

No. 5. Prohibit the carriers from employing in any of these capacities any man not properly licensed to work in such capacity, or without a full complement of men duly licensed.

This would insure competent men in these positions and assure the public of a reasonable amount of safety in travel, and also protect the men against unjust competition in their work and make the work more attractive for men to become competent in those positions.

No. 6. Require every man receiving a license to sign an enlistment in the service of the Government in case of military necessity to work in the capacity in which he is granted a license.

This will provide an adequate force for the operation of transportation lines in time of military necessity that can be mustered on short notice and will be trained men, and will be in line with the preparedness idea.

No. 7. Require every licensed man to accept employment in the position for which he is licensed when it is offered to him or furnish his reason for not doing so, and if requested furnish it in writing to the party requesting him to work. This excuse or reason for not working to be turned in to the local board of inspectors if so desired by the company for investigation. If in their judgment it is advisable they can summon the employee to appear before them and give him a hearing. If his reason is found on investigation to be unreasonable his license may be revoked or suspended for a given time. Either side to have the right to appeal to supervisory board and from them to the courts.

While a man can not be compelled to work if he does not want to, slavery having been abolished, when the Government grants a man a privilege they can in return demand some service. Under this clause such excuses as sickness, attention to private interests, retirement and others of that nature, if found to be true and well founded would be sufficient. The excuse that the wages offered by the employer were not sufficient would be subject to investigation and would bring about arbitration at once, and only one man would have to quit to get a ruling. Under this rule men could not strike and tie up the business of the country without the Government being in position to take a hand. The railroads could not make the excuse that they could not operate trains for lack of help in case of strike, as their action would be subject to approval of the inspectors and review by the courts. This would also give to men protection in the fact that, whereas now a man may have been a conductor on one road for years, if he loses his job he again becomes a novice and must begin at the bottom of the ladder again, while, in this case, if he holds a license as a conductor on one road, he would be a conductor on any road, and would never lose his apprenticeship.

No. 8. Require licensed men to report to the local inspectors any accidents in their departments, giving the causes, etc., in full, and making them amenable to the Govern-



ment for any failure on their part to perform their duty and responsible for accidents caused by their failure.

This would place at the disposal of the Government a source of accurate information as to the causes of accidents, and by investigation the facts would be obtained where now the fear of loss of their position makes employees prejudiced in favor of the road. Under this arrangement the loss of their license would be a much more serious affair than the loss of their position, and their loyalty to the Government would be unquestioned. It would do away with making some minor employee the scapegoat and exempting those higher up or the company.

No. 9. Require all licensed men to show a knowledge of the laws as applied to their work as well as a practical knowledge of their duties, and hold them responsible for any violation of the laws in their particular capacity or department. This will prevent to a great extent violations of the laws on the part of the railways, as they will be less able to get men to carry out their work, as the men will share in responsibility to the Government, and their failure to obey the laws will endanger their license.

No. 10. Establish throughout the country a system of railway hospitals along lines of the present marine hospital system for the care of sick or injured railroad men, and make a license as a railroad employee a pass to those hospitals. This service to be paid by a percentage levy from the wages of the employees.

This will supersede the present system in vogue on most roads of taking a part of the employees' wages for maintaining hospital service, etc. This system at present is bad, as the company in most cases is in too close touch with the funds, and when a man leaves one road and engages with another he loses all the benefits that may be due him for funds contributed to the road he left. Under this system a man's hospital contributions would always be good, no matter what road he worked for or in what section of the country he might be when in need of hospital service. Again, it is commonly charged under the present system that in case of injury to men who are attended by the company doctors provided under this system, that the service is not the best, as a dead man only costs \$5,000, while an injured man that lives may cost much more for damages. In this case the Government doctors could have no interest other than to save life and do the best that could be done.

JOHN M. AXTELL.

## THE DOCTRINE OF SELFISHNESS AS A SOLUTION OF THE RAILROAD PROBLEMS.

By GLEN. B. WINSHIP.

The welfare of every American industry and of every individual citizen is involved in what is popularly styled the "railroad problem." National in scope, it calls for nation-wide consideration.

The recommendations of the Interstate Commerce Commission, if carried out, should alleviate but they can not cure the ills of the railroads. These recommendations, indeed, were offered merely as wartime expedients. But when the diseased arteries of our industrial life are threatening to break under strain, though we must welcome temporary relief, failure to seek a permanent cure would be courting eventual disaster.

This problem will be solved when we four rival interests—the owners, the creditors, the Government, and labor—can be made to work in harmony. They will not work in harmony—save, possibly, under the tress of war—unless some tangible and immediate advantage is offered to each.

There is no use blinking the fact that man is selfish. Theoretically we concede that "self-preservation is the first law of nature," but we hesitate to apply this fundamental truth to the solution of a practical question. A direct appeal to selfishness—or to self-interest, if that term is preferred—is needed if America's transportation system is to be saved from a prolonged and possibly disastrous period of inefficiency. As you fight fire with fire, and posion with poison, so must selfishness solve the problem it created.

What caused the railroad problem? Here are some of the answers that have been given to this question:

One says, "Mismanagement for personal gain," or "Mismanagement for profit of bankers and financiers;" another says, "The restrictions placed by the Interstate Commerce Commission and other regulatory legislative bodies," and a third places the chief blame on "the exactions of labor."

Obviously selfishness was the cause of any mismanagement for personal gain or profit of financiers. "The exactions of labor" were also inspired by selfishness. Legislative bodies are direct representatives of the electorate, and the Federal and State railway commissions are also representatives of the people, though they may occupy a pseudojudicial position; so that it was self-interest—vicarious, if not individual—that dictated the restrictions which they have placed upon the railroads.

Under existing conditions it is idle to say to labor: "It is to your advantage to restrain your desire for more wages, because if the companies are overburdened your means of livelihood may be gone." The possible advantage is too remote.

The difficulties of the roads have not been overcome by saying to commissions and to legislative bodies: "The people you represent will be served best by adopting a liberal policy toward the railroads in respect of rates and operating conditions." Even those commissioners and legislators who admitted the truth of this statement were nevertheless aware that any substantial advance in rates or any relaxing of operating requirements was sure to bring down upon their heads a formidable wave of protest.

Nor would it be effective to say to investors: "You should be content to lend additional capital to the railroads at small rates of interest, because otherwise they may not be able to make the improvements and extensions that are constantly demanded, and your present investment may be imperiled." Here also the controlling factor is immediate self-interest.

Dismayed by the consideration of these conflicting forces, thousands of men are saying, "The only remedy is Government ownership."

Government ownership is not the only remedy, and it would not solve the railroad problem. At best, it could only postpone the day of reckoning.

The alternative of Government ownership is an arrangement which would appeal directly to the self-interest of all four elements, and the most effective appeal, of course, is monetary. The following is suggested as a tentative outline from which such an arrangement might be negotiated:

The first essential is structural unity. War has made obvious the fact that railroads could best serve the nation if operated as a single system.

Antitrust legislation became necessary, not because combinations were fundamentally wrong, but because their legitimate advantages were being abused for selfish motives. Our industrial evolution might be likened to the growth of a boy. His physical development is apt to be spasmodic; his limbs may shoot out while his trunk stands still. There is little harmony of growth, and years are required to restore proper proportions. So with our industrial evolu-

tion; combinations were growing too rapidly, and the rest of the industrial system could not keep pace. The law stepped in to correct abuses, and temporarily stayed the natural tendency toward combination, but a law must be modified or discarded when it becomes archaic and drags on the wheels of progress.

It has been proposed that the railroads be permitted to combine in, say, five great groups, on the supposition, presumably, that an arrangement which has been tried with a measure of success in the field of banking would perforce be successful in the railroad field. But the railroad problem is not a sectional problem; it is national in almost every sense of the word. So to divide the railway system—just how it might be accomplished has not been publicly suggested—would surely foster sectionalism, and the conflict of selfish interests would surely lessen the efficiency and impair the usefulness of the Nation's transportation service. Furthermore, whatever advantages are offered by the unification of railways in a section of the country would certainly be possessed in higher degree by the unifications of all the railways in the United States.

This unification might be brought about by the organization under special Federal charter of a corporation authorized to acquire ownership or control of any and all railroads in the United States (excluding local tractions) either through purchase of securities or otherwise, with the provision that all acquired corporations be dissolved as soon as legally possible, title to their properties being transferred to the Federal corporation. It would be through this Federal corporation that the direct appeal to the self-interest of the four elements could be made.

Representation on the board of directors would be in about the following proportions: Assuming a total membership of 19, 8 would be elected by the stockholders, 2 by the bondholders, 2 by the employees, and the remaining 7 would represent the Government. On questions involving the borrowing of money or the issuance of stock a vote of 75 per cent of the directors would be required.

The corporation and all of its securities would be specifically exempt from taxation in so far as this could be constitutionally done, but the Government would share in the profits.

Net earnings would be applied about as follows:

1. Interest and other fixed charges.
2. Cumulative sinking fund, amounting annually to 1 per cent of the largest amount of bonds and notes at any time issued or assumed by and outstanding against the corporation, this fund to be used for the retirement or purchase of outstanding obligations.
3. Cumulative dividends (stock all common) at a rate exceeding by 1 per cent the average interest rate paid by the corporation in the preceding year.
4. The balance to be designated as surplus earnings and to be applied as follows:
  - a. Thirty per cent to the Federal Government.
  - b. Twenty per cent to the employees in a manner explained in subsequent paragraphs.
  - c. Twenty per cent to additions and betterments.
  - d. Twenty per cent as an extra dividend.
  - e. Ten per cent to be set aside as a reserve against interest charges.



Until all roads were acquired the rate-making power could rest with the Interstate Commerce Commission, this commission being granted sufficient authority to override all conflicting orders of State bodies, and would regulate the scale of wages.

Probably the most effective method of distributing the employees' share of surplus earnings would be what might be termed the "unit-of-interest" method. The number of "units of interest" to which each employee would be entitled would be calculated at the end of each fiscal year by multiplying the number of dollars he had received in wages during that year by the number of years of his continuous service. The distribution would then be pro rata, each employee receiving an amount bearing the same ratio to the total distribution as the ratio of the number of his units to the total number of units. But instead of distributing the entire 20 per cent of surplus earnings in cash to the employees, there would be distributed in cash about 5 per cent, and in stock about 10 per cent, the remaining 5 per cent being placed in a pension and insurance fund for their exclusive benefit. Full shares of stock received in this way by the employees would have the same status as other shares, but certificates calling for fractional shares would not be negotiable, but in case of the death of the holder would be bought back by the corporation at par.

In electing their representatives on the board of directors the employees would cast one vote for each unit of interest.

It is not the purpose of this article to set forth all of the important arguments in favor of this suggested arrangement, but before leaving it to the mercies of public opinion it may be well to point out how nicely it carries out the doctrines of selfishness, and how it avoids the most distressing difficulties that confront the advocates of Government ownership.

The Government would avoid assuming or guaranteeing almost \$10,000,000,000 of funded debt, and of satisfying the claims of the holders of some \$6,000,000,000 of railroad stocks. By this means it would safeguard its own credit, and at the same time would be assured of adequate railway service with all the advantages of Government ownership and of private ownership without their disadvantages. In lieu of taxes on the railway industry it would receive a just proportion of earnings without assuming any liability, and the amount of its proportion of earnings would be almost entirely within its own control.

Owners of existing railroad bonds and stocks would be free to negotiate with the Federal corporation for the sale of their holdings; they would not be under compulsion to relinquish what they now own, and there would be no occasion for commandeering and for long-drawn legal battles. If the Federal corporation offered them its own bonds in payment, they would be content with a small rate of interest because the safeguard placed around the new bonds would entitle them to a rating second only to the direct obligations of the United States Government. If the Federal corporation offered them stock in payment, the extra 1 per cent would compensate for the fact that the dividend rate was not fixed, and the added certainty of steady payments would make it more attractive than the majority of ordinary corporate bonds. Then there would be the participation in surplus earnings, which the financial world would regard as assured. This would enable the corporation to raise its additional quotas of

of capital for improvements and extensions without recourse to the sale of large amounts of bonds, and the present unhealthy trend of railroad finance would be stopped.

Labor would have a just representation. Wages, of course, would rank ahead of interest and dividends, and the share of surplus earnings would be a tangible incentive to effort. Employees would be reminded of their partnership in the industry, not only by the receipt of these earnings but also by the election of their representatives on the board of directors and by their ownership of dividend-bearing stock. Their accumulative or saving spirit would be fostered, and the malcontents would be opposed first by the premium placed upon continuous service and second by the semiofficial character of the corporation.

Shippers could raise no valid objection, because freight service would be improved by reason of unity of operation, and because they would have the same right of appeal to the Interstate Commerce Commission as now.

Railroads not immediately acquired could have no basis for opposition, because they would enjoy the same rates as the Federal corporation. At the same time they would soon be glad to join the Federal system, because they would find it difficult to compete in the money markets and in the operating field.

There would be no basis of exchange of private railway securities for the bonds of stock of the Federal corporation. Prices to be paid would be the subject of negotiation, and all interests could feel assured that the prices would be fair because a 75 per cent vote of the board would be required.

The stock as well as the bonds of the Federal corporation would become a legal investment for savings banks and similar institutions, and confusion of interlocking railway corporations and resultant possibility of loss on the part of investors would be a thing of the past; and a premier investment security would be created which would act as a backbone and a stabilizer of general investment conditions.

Of course, there would be some difficulties to overcome, but these would be insignificant in comparison to those involved in any proposal of Government ownership of the railways, and what is most important of all, by catering to the selfish instincts of everyone directly concerned the suggested arrangement would provide the maximum of service without injustice and without recourse to the dangerous experiment which is now so persistently urged.

(Thereupon, at 12 o'clock m., the committee adjourned until tomorrow, Tuesday, December 18, 1917, at 10.15 o'clock a. m.)





# INTERSTATE AND FOREIGN TRANSPORTATION.

**TUESDAY, DECEMBER 18, 1917.**

CONGRESS OF THE UNITED STATES,  
JOINT COMMITTEE ON INTERSTATE COMMERCE,  
*Washington, D. C.*

The joint committee met at 10 o'clock a. m., pursuant to adjournment, Senator Francis G. Newlands, presiding.

## **STATEMENT OF HON. JOSEPH L. BRISTOW, CHAIRMAN OF THE KANSAS STATE RAILWAY COMMISSION.**

Mr. BRISTOW. Mr. Chairman and gentlemen of the committee. As I remember, and I think it is accurate, something over a year ago when these hearings were started, Mr. Thom, representing the carriers, stated in a general way as a basic reason for the investigation that the railroads were in sore need of financial help; that they had been handicapped in their financial arrangements and in their earnings by the oppression of State commissions, and in order to relieve the carriers of the burden which was thus imposed upon them he advocated that the Interstate Commerce Commission be given the authority which these commissions were now exercising.

That request, and the whole program outlined, as I remember it, was based upon the statement that the roads were financially seriously embarrassed; that they could not borrow money; and that something had to be done.

After hearing his statement, I, as chairman of the committee, representing the States, thought that it would be useful to this committee to have a study of the financial conditions of the railroads. This was suggested to me by some of the exhibits that were presented in the western advance rate cases at Chicago in the year 1915. These exhibits that I refer to were submitted by the State commissions, and, acting upon that idea, I employed Prof. Norton, formerly of Yale University, a financial writer, who wrote for many years for the Wall Street Journal, and who is now an expert on investments and advises investors as to the reliability of securities. I employed him to take certain exhibits which he had prepared for the States in this advance rate case, which came down to 1914, and bring them down to 1916, including the years 1915 and 1916, thereby showing up to January 1 of this year what was the actual credit of the American railways. This exhibit which I now present, therefore, is not a matter of opinion or theory, but it is the actual facts.

Prof. Norton's plans, in a general way, takes the sales of securities that are made, the investments in securities, takes the price at which a bond will sell in the market, or that it does sell in the market,

the interest rate, the length of the term of the bond, and then figure out what interest the investor obtains from that investment.

He is quite an eminent authority, and his plan, in a general way, is to make a comparison of the rates of returns with what he terms the pure money rate, as was referred to by Mr. Brookhart in his statement, which is the investment that is the freest from risk or expense of all investments.

Up to the beginning of the war it appeared that the securities of the great Governments of the United States, Great Britain, France, and Germany were the best index of what a pure money rate was, that is, what money itself could be had for. The risk was regarded as the smallest, because the financial reliability of those Governments was not questioned. They were free from taxes. So up to that time in the study which he made in the advance rate case, including the year 1914, he took as the standard the Governments, and compared as well municipal investments in municipal bonds, the industrial investments in industrial bonds, and railway investments.

When I asked him to bring the exhibit so far as it related to the value of railway securities on down, including the years 1915 and 1916, he did not take the Governments as the best standard of a pure money rate, because the credit of the Governments was all affected very much by the war, and so he took in this study, which I submit to you as an exhibit, the 20 largest cities in the United States, and took their credit, as the best measure now of what he terms the pure money rate.

Mr. SIMS. During those two years?

Mr. BRISTOW. No; during the 27 years that he has covered, but he made the comparison in this exhibit with the cities instead of the Governments, because the credits of the Governments were so shattered, that the comparison he did not think was fair. He says, in a preliminary statement of his investigation here, that it would not be fair to the railroads to take the Government securities because the credit of the Governments was seriously affected by the war.

Now he takes these roads and these cities and their securities from 1890 down to 1916, and gives in each year the interest rate which their securities commanded in the market.

He has explanations of each table that are very clear. You will notice, in examining the exhibit, that the lower the rate of interest the better is the credit of the concern, whatever it is. If the credit is first class, why its securities find a market at a lower rate, and wherever the figures show that the rate was low, it is an evidence that the credit was good.

I have found it very interesting, and I think you gentlemen will. And this interesting fact is developed, that something over a year ago now when the gentlemen representing the carriers appeared before the committee and stated, in their most earnest and forceful manner, that the credit of the railroads was destroyed, it was better than it had been in previous years, and their securities were selling at a lower rate in the markets of the United States.

It is also an interesting observation, which you gentlemen will learn upon inquiry into the earnings of the railroads, and I have here some statistics gathered here as to their earnings, which I will submit later, that the earnings of the railroads in the year 1916, the net operating revenue, was larger than any year in the history of

American railroads. Nineteen hundred and thirteen was the next highest in net operating income, but the net operating income for 1916 was almost \$200,000,000 more than in 1913. It is not possible to tell at this time what the net operating income will be in 1917 because the figures are not available yet, but the indications are that they will not be as large as they were in 1916. Whether they will be larger than in 1913, of course I am unable to say. The western roads, with which I am most familiar, will show for this year, in my judgment, a larger net operating income than in 1916; at least they show a larger net operating income for the first nine months of 1917 than for the same period in 1916.

This is an interesting comparison with the credit of the cities from year to year and the credit of the railways, and it demonstrates, and there can be no theory about it, it is simply a fact, that the credit of American railways up to January 1 of this year was not impaired, and that it did not suffer in comparison with the 20 larger cities in the United States, and I have Mr. M. A. Chambers, who is the accountant of the Kansas commission, the chief accountant, and he is familiar with the methods by which Prof. Norton makes these calculations. I am not familiar with the details of it; I know in a general way, as I have explained, and if you gentlemen would like this exhibit elaborated upon at any time during the hearings, or while Mr. Chambers is here, he will be glad to do it, or if you prefer I could have Prof. Norton come down here.

Senator CUMMINS. How many railway companies were included in the study?

Mr. BRISTOW. Twenty railroads. This study that I submit refers only to the western railroads. Prof. Norton has made an investigation as to each road. I did not ask him to investigate as to the eastern roads because the expense would have been very much larger than this was, and this was as heavy as the State commissions could well meet, and then for the purposes for which I appeared before the committee, I thought this would be sufficient. I think if the committee should desire, they would find any study Prof. Norton has made in regard to each road very useful, if you care to go into it.

Senator CUMMINS. Does the table cover all the roads in the territory?

Mr. BRISTOW. The principal ones. There are 20 roads included in the study.

The CHAIRMAN. I presume that includes large systems?

Mr. BRISTOW. Oh, yes; the Santa Fe, Union Pacific, Southern Pacific, Frisco, Missouri Pacific, and those roads.

Mr. SIMS. The Northern Pacific also?

Mr. BRISTOW. And the Northern Pacific; also the Chicago, Burlington & Quincy, the Chicago & Milwaukee, the Northwestern, the Great Northern, the Minneapolis & St. Louis, the Northern Pacific, the Union Pacific, the Santa Fe, the Rock Island, the Southern Pacific, the St. Louis & San Francisco, the Kansas City Southern, and the Chicago & Alton.

Senator CUMMINS. Does the table, or some one of the tables, cover stocks as well as bonds?

Mr. BRISTOW. Yes, showing the market value; that is, the market price of the stocks every year. Some of these bonds, of course,



did not exist in 1890, but whatever year they came into existence their market value, what they sell for, and what rate of interest the investor secured by the purchase is shown by the table, and the later tables show the price of railroad stocks during all of these years, beginning with 1890—show the loss and decline.

Senator CUMMINS. Are those tables taken from actual operations?

Mr. BRISTOW. Yes; from the actual sales.

The CHAIRMAN. They run over a period longer than 20 years?

Mr. BRISTOW. Yes; more than 20 years; but some of them only 20 years. It is really from 1890—that is when he started his investigation, in 1890. Now, there are three figures in the sale of bonds. Frequently, as you gentlemen well know, a railroad may contract with a syndicate to market its securities, and the syndicate pays it a certain price. The syndicate will sell to bankers, or investors of various kinds, or dealers, or brokers, and of course it would get more than it pays to the railroad; it would pay a profit. Then the broker sells to the public. Now, Prof. Norton has taken the investments that are made by the public in these securities as the standard of their value. The man or the woman that buys the security for the income he receives from it, that he may have an investment, he regards that as the proper standard for the credit of the institution which is what its securities bring in the open market by men or women who have money to invest upon which they want an income.

Senator CUMMINS. Do these tables cover transactions from day to day in the stock markets?

Mr. BRISTOW. Prof. Norton takes the transactions from day to day; he gives the average; but, as I understand it, he takes the transactions of the stock market, and he gives here his authority for these figures, the publication of which gives the prices at which they are sold—is stated in a footnote from day to day—and contains the average market price for the stock for that day, and then he averages it for the month and for the year. So you have the figures or the yearly averages of the market prices of these securities.

Senator CUMMINS. Does the table show the volume of the transactions?

Mr. BRISTOW. He takes certain bonds. He does not take all the bonds of the railroads, because sometimes that is not available, but he will take a series of bonds, as you will observe, and run through the period of time, and in his notes he states from a comparison that the securities of a railroad will bring about the same, all of them being practically the same amount that bear the same rate of interest and mature at the same time, so as an index to the credit of a road it is accurate.

Mr. ESCH. So it shows what the purchaser pays for the bond is considerably more than what the railroad receives?

Mr. BRISTOW. No.

Mr. ESCH. Because you deduct the syndicate's commission and the broker's fees.

Mr. BRISTOW. That will depend, of course, on how the railroad markets its securities.

Mr. ESCH. That is the customary way, is it not, as you say with a syndicate?

Mr. BRISTOW. That is frequently done.

Mr. ESCH. That applies to all flotations of securities, does it not?

Mr. BRISTOW. I suppose it is usually done. As I remember the Interstate Commerce Commission investigation of the Alton case showed Mr. Harriman's syndicate sold a series of bonds of the Chicago Railroad to the stockholders, and Mr. Harriman and three other gentlemen were the stockholders, and they bought them for themselves, as I remember, for 65. It may not be that these figures are exactly accurate, but they are approximately; it is some time since I read it. Harriman then sold \$10,000,000 for the stockholders to the New York Life Insurance Co. for 96, and then the remainder of these bonds went on the market, and they brought from 88 to 92, as I remember it. Now, Prof. Norton would have taken what those bonds brought on the market as an indication of the credit of the railroad.

This is a discussion of the financial credit and standing of the carriers, and this study indicates what the public pay for their securities and what the investor gets out of them, showing what he thinks the financial standing of that railroad is.

Senator TOWNSEND. Would that be a fair way to determine what the railroads get out of them?

Mr. BRISTOW. It determines the credit of the railroads; it determines what the railroad ought to get out of it. If its securities, running at 5 per cent, will sell at par in the open market, and the railroad does not get that par for them, it is not the fault of the public. That is up to the officers of the railroad. If, as in the Alton case, they prefer to sell it to themselves for 65 and make a profit of 30 or 31 per cent, or 20 per cent, or whatever it may be, why, that relates to the internal management of the corporation and is not a matter with which the public should be charged. The credit of a railroad depends upon what the public is willing to pay for its securities, the same as the credit of any other institution, a government, or a city, or anyone else.

Mr. SIMS. When the owner of the securities sells them to a bank or syndicate it is a wholesale transaction, and when that bank or syndicate sells, or the sales agent sells it out, it is a retail transaction; and, of course, the retail price is what the investor pays and is willing to pay, and the railroad company or any other company that sells its bonds that way saves the expense of marketing in detail, and it is done with flotations of all sorts of securities. That, I know, is frequently the way. That is the general rule.

Mr. BRISTOW. Yes. Now, there is another feature of this that I desire to call your attention to, which is one of the surprising things to me. I am inclined to think, and this is simply a superficial opinion which I obtained from reading the current papers, that the credits of the railroads are not so good now; that is, they have to pay a higher rate of interest than they did a year ago, at the time these hearings began.

Senator CUMMINS. That is true of every kind of security, is it not?

Mr. BRISTOW. Yes. Now, I have not any evidence, and I do not think any has been obtained anywhere, to show whether their credit is affected more than other securities. But it would be surprising to me if it has not been, for you gentlemen well know that there has been a campaign of publicity deprecating the financial condition of the railroads and picturing in the most unfortunate and almost gruesome manner their financial straits and difficulties, and

my judgment is that there is no business concern on earth that can stand on the housetops and declare that it is bankrupt, that can use the public press universally as the railways have done the last year, deprecating their own financial responsibility, without the public concluding to some extent that they are right.

Mr. SIMS. And they have made these statements officially before the Interstate Commerce Commission, have they not?

Mr. BRISTOW. Oh, yes. I will read to you, before I get through, some of their statements.

Now, this has been done in the rate cases, as well as before this committee, and in the standard magazines articles have been written by able writers in some instances stating things that are not true, inadvertently—I would not say they stated them deliberately, but they imagine that they are telling the truth when they are not—that the States have in a measure destroyed the credit of the railroads.

Gentlemen, I have followed these hearings as closely as I could with my other work, and I do not believe that you will find in this record the statement of an official act that any State commission has done that has injured the credit of any individual railroad. A general statement may be made, but what we are interested in, those of us that are representing the States, is for them to state what has been done definitely and specifically, that has affected the railroads or the credit of any railroad or any of its securities, and then we will answer the allegation if we can. If we can not, the fact is demonstrated for you gentlemen to consider.

Now, I have sufficient of these statements for each member of the committee.

Mr. ESCH. Do you propose to print these Norton tables in the testimony as part of your hearing?

Mr. BRISTOW. I submit that to you, to each of you gentlemen; then I offer this as an exhibit for the use of the committee, and a copy for each member of the committee.

Senator CUMMINS. I think this exhibit should be printed as a part of the record. I think there is nothing in it that can not be easily reproduced.

Mr. SIMS. You mean an exhibit and made a part of his statement?

Senator CUMMINS. Yes.

Mr. BRISTOW. I submit it as an exhibit and part of my statement. Of course, you gentlemen will determine whether you will print it or not.

Senator CUMMINS. I have been somewhat familiar with them since they were introduced in the Advance Rate Case hearings, that is up to 1914, and I think that this exhibit, connected with the one that is introduced in the Advance Case and this reproduces that statement, I think it is the most complete showing with regard to what has happened to the railway securities of this country that has ever been made.

Senator TOWNSEND. Who is Mr. Norton?

Senator CUMMINS. He is a philosopher and a statistician. He is now in the university.

Senator TOWNSEND. What university?

Senator CUMMINS. Yale; and Senator Bristow has just stated his business is to advise investors with regard to the value of any securities offered on the market.



I was just saying that I think this exhibit ought to be printed in the record.

The CHAIRMAN. If there is no objection, it will be so ordered.

(The document referred to is printed in full as Appendix A to this volume.)

Mr. SIMS. Mr. Chairman, can I ask a question of Senator Bristow now, because he is going to leave this subject now, as I understand.

The CHAIRMAN. Certainly.

Mr. SIMS. Do you, and does Prof. Norton, treat the shares of stock of a railroad as a debt, or liability of the railroad in the nature of a security?

Mr. BRISTOW. They are; the bonds and stocks are treated as securities of the railroad.

The CHAIRMAN. You may proceed.

Mr. BRISTOW. I have not dealt with the bankrupt railroads, the cause of the bankruptcy, and do not expect to in any statement that I make, because I think that was covered by Mr. Thelen, and completely covered. His statement, in connection with the Interstate Commerce Commission's report, plainly indicates why these railroads became bankrupt; and the States make the challenge, invite any complainant to state specifically where any of their commissions' acts have affected the financial standing of any of these bankrupt railroads. We claim that they have not, and that it can not be shown that the State commissions have in any way impaired the credit of any of the railroads that have gone into the hands of receivers, and if that statement is denied, all we ask is that the statement be specifically made as to what they did that impaired the credit.

If the committee should desire to go into the New Haven situation in New England, which is one of the acute situations in the United States, Mr. Eastman, a member of the Massachusetts commission, will come at any time and appear before the committee; and Mr. Niles, of New Hampshire, the chairman of the New Hampshire commission, who is chairman of the National Association of Railway Commissioners, will be glad to appear. If the committee desires to go into the New England situation in detail any more than they have, and if, after we have completed our statement, the States—the carriers—should submit any additional statements that have not now been presented to the committee that we think ought to be met, we ask the privilege of meeting them.

I think it would be well to go into the details now as to how State commissions work and what they do. That has been presented by Mr. Jackson, of Wisconsin, and Judge Mills, of Minnesota, but I thought it might not be a waste of time for me to go into the actual, concrete work in a little more detail, so that you gentlemen may understand just what we do and how it affects the public or the interests of the carriers, and I think the Kansas commission's powers are those generally exercised. I can give, if desired, a list of States that practically exercise the same powers. Not all of them have the same, but most of them do.

The Kansas commission has jurisdiction over all common carriers, including railway companies, State railways, sleeping car companies, freight car lines, equipment companies, pipe lines, and all other public utilities.

The commission has jurisdiction over common carriers, includes all railroad companies, express companies, street railroads, suburban and interurban railroads, sleeping car companies, freight line companies, pipe line companies, and public utilities within the States.

There is a statute which provides that they shall not issued any stocks, bonds, or evidences of indebtedness, unless they shall have presented their application to the public-utilities commission, and the commission has found that the statements in the application are true, and that the issuance of the said stocks and bonds are reasonably necessary for the carrying out of the franchise obligations of the utility or common carrier. And that is one authority which a good many, quite a number, of the State commissioners think ought to be exercised by the Federal Government. I am inclined to think that there is force in the suggestion, but I do not think it ought to be absolutely controlled by the Federal Government, and I will give you some illustrations that lead me to such conclusions.

The Orient Railroad is a Kansas corporation—the Kansas City, Mexican & Orient Railroad. It is one of the Stillwell roads, and is a bankrupt concern, always has been, and will be probably for many years to come. It was in the hands of a receiver, and the officers of the road came before the Kansas commission and asked authority to issue securities aggregating about \$70,000,000. We made an investigation as to the value of the property. Its cost, as near as could be ascertained, and that could not be ascertained accurately, was from \$20,000,000 to \$25,000,000. It was in a badly depreciated state, so that its real value might be estimated anywhere from \$15,000,000 to \$20,000,000.

The CHAIRMAN. How many miles of railroad has it—800?

Mr. BRISTOW. I have forgotten the exact mileage, I think four hundred and something, but I do not remember the exact mileage now, Senator.

The Kansas commission refused to permit the issuing of \$70,000,000 securities of bonds and stock on any such property as that.

Senator TOWNSEND. Was that an independent line?

Mr. BRISTOW. Independent; yes, sir. And the receivership was continued. I think the stockholders, or those interested parties put up some money, and relieved some of their obligations, and it is not now in the hands of a receiver. But the purpose was, of course, to set afloat the \$70,000,000 and to get out of it what they could.

We undertook to aid in the reorganization, and suggested that if they would make the bonded indebtedness practically the value of the road, and issue a reasonable amount of stock to represent the control and the ownership, even though there was no actual physical value behind it, that the commission would not look with disfavor upon a reorganization of that kind. We were ready to do our part to put it upon a sounder basis than it had been. Different sums were suggested, five or ten millions of stock, as the case might be. The owners, which were chiefly an English syndicate, refused to accept any issue less than they had asked for, upon the ground that they could not get so much money out of a small amount of stock as a large amount of stock. It was suggested to them that the stock represented all the value of the road over and above the bonds, anyway, and that \$5,000,000 represented the same property that \$30,000,000 would, and their statement was that they could not sell \$5,000,000 for

par nearly so easily as they could sell \$30,000,000 for one-sixth of par; that the larger the volume of securities the more money they could get, because a man would pay more for 200 shares of stock representing the same value than he would for 100 shares. There is a speculative feature about stocks: they rise and fall, and they are manipulated on the markets, and the dealers can get rid of them for more money if they had the larger amount than a small amount on the same value of property. We did not think that such policy in the public interest and we refused it.

I do not think that any Federal board ought to have the authority, independent of the State and without the knowledge of the State, or any notice to the State, or any protest from the State, to pass upon a question in which the people of the State are primarily more interested than the United States at large.

I will illustrate that view in a different line. The Missouri Pacific Railroad has about 3,000 miles of mileage in Kansas. It has been financially in a bad way. Some years ago it was put in the hands of a receiver. Now, from its statements made by the officers of that road, its financial trouble, which resulted in a receivership, came from its acquiring the Denver & Rio Grande which had acquired the Western Pacific, the Western Pacific being a failure and too heavy a load for the Rio Grande to carry, took it down, and the Rio Grande and the Western Pacific, being too heavy a load for the Missouri Pacific to carry, the Missouri Pacific went down. The result was that the people of our State had an inferior service—a wretched service—for many years, while the road was in the hands of a receiver: claims against it for destruction of property could not be collected: the claimants had to wait, and the interests of the people of that State were seriously injured by the mortgaging of this road and the investment of the money in foreign lines, so the interests of our State were vitally associated with the mortgaging of the Missouri Pacific road. Its capitalization was increased in order to obtain these properties as stated, and I think if the committee contemplates placing the issuing of securities in the hands of the Federal Government that there should also be some provision whereby a State may be heard and heard effectively, to protect its interests when involved, as they certainly were in this case.

The CHAIRMAN. Senator, were you ever able to understand why it was that the Missouri Pacific engaged in that transaction of building the Western Pacific?

Mr. BRISTOW. I suppose they were ambitious for a transcontinental railroad. That was the current rumor.

The CHAIRMAN. It parallels the Central Pacific through my State; quite an unproductive region. I could not understand what it was that prompted that railroad to enter upon that investment.

Mr. BRISTOW. Senator, I have no information except that which comes from current rumors, and that is the Goulds, who at that time controlled the Missouri Pacific, were exceedingly anxious to have a transcontinental line to meet some competitive conditions that existed.

Senator CUMMINS. The answer might be that the roads were desirous of enjoying the low rates that were in force to Pacific coast points.



Mr. BRISTOW. Again referring to the Missouri Pacific, the Missouri Pacific at the time the hearing started was in the hands of a receiver. It has been reorganized and is now out and doing a very good business; much better than those of us who were familiar with its affairs expected. But in its reorganization the reorganizers thought to get rid of what is known in our State as the Madison branch.

Senator CUMMINS. Before you go into that, I did not understand what you just said a moment ago. Do you believe that the State commission should have the power to override the decision of the Interstate Commerce Commission on the point, or simply that the State commission shall have an opportunity to be heard in the decision, before the decision is made?

Mr. ESCH. In other words, what do you mean by the State commissions being effectively heard?

Senator ROBINSON. Yes; I had the same thought.

Mr. BRISTOW. To tell the truth, it is just a little hard for me to draw the line. I believe the Federal Government ought to have control of the general subject, but I do think that some provision should be made by which the State can protect itself from an abuse. Now, it might be perfectly safe to have a hearing and its opportunity to present its objections. If that is no more effectively done than it is frequently done in rate matters, it would not be of much use.

Senator CUMMINS. But if the Interstate Commerce Commission were restricted so that it could not authorize the issuance of securities unless the railroad companies received the full benefit of the securities—that is, unless they were paid for the money invested in the betterment of the property—that would be sufficient protection for anybody, would it not?

Mr. BRISTOW. Oh, you can put restrictions around it and then give the States an opportunity to be heard and probably protect them.

Senator ROBINSON. Would you favor giving the States power to require that a given portion of the proceeds of stocks and bonds authorized to be issued by the Interstate Commerce Commission should be expended within that State?

Mr. BRISTOW. No, I do not think that rigid requirement would be wise, because sometimes it is important to the people of the State that an improvement be made outside the State—terminals and things of that kind. But I do think that it is usual. The Missouri Pacific was mortgaged in Kansas very greatly to the detriment of the Kansas people and the money spent all outside of the State, and foolishly spent.

Senator ROBINSON. And the people of Kansas had to help pay for it?

Mr. BRISTOW. The people of Kansas had to help pay for it, and had to suffer a very great loss in the inferior service as a result of it.

You gentlemen who have had longer experience in these things than I have, I believe you will all agree with me that there ought to be some provision by which the State may protect itself from abuses of that kind. The State commissions can do it; they have this power, now, and I think many of them do protect their States.

Mr. DOREMUS. Senator, would you permit a question right there?

Mr. BRISTOW. Yes, sir.

Mr. DOREMUS. Would the purpose you have in mind be served if the law provided that any State affected would be made a party to

any proceeding before the Interstate Commerce Commission for the issuance of stocks and bonds?

Mr. BRISTOW. That would be very much better than not to do it. Whether that would always protect the State or not I could not say.

Mr. DOREMUS. Of course to make a provision of that kind effective, the Federal Government would have to be supreme in the final analysis?

Mr. BRISTOW. Yes.

Senator ROBINSON. You certainly would not favor, at least without more consideration, making the State subject to suit every time a controversy of that kind arose in a Federal jurisdiction. That would make the States common parties defendant.

Mr. BRISTOW. As I understand, it would not be a suit; it would be a proceeding before the Interstate Commerce Commission, and the State would be represented at that proceeding; it would be in the nature of a hearing, and the States would not be defendants, they would simply——

Senator ROBINSON. But it would be a proceeding which might be determined against them, against their interest, which for every substantial purpose would constitute a suit against the States and the people of the States. That is the point I make. Whenever you recognize the Federal jurisdiction as supreme, as Judge Doremus has just suggested, and the States must be made parties to these proceedings, you have virtually provided for suing the States in all those proceedings.

Mr. DOREMUS. I had not that in mind. Here is a railroad that goes before some Federal authority and asks permission to issue bonds or stocks; the State of Kansas, we will assume, is interested in that question. It seems to me that the State of Kansas ought to have an opportunity to be heard. It does not necessarily make it a party defendant to the suit but for the protection of their own interests.

Senator ROBINSON. The point I am making is that if the State has an interest in it and gives them notice, and by that proceeding precludes their interest, and it would not be valuable unless it did construe, in effect and in law, a *res adjudicata*, when it had been determined, you, in effect, would be suing the State and rendering a judgment against it or in favor of it, whichever it might be. I do not say it is not a practical way to do it, but I point out that would, in my judgment, constitute a proceeding against the State.

Mr. DOREMUS. Possibly it would not be necessary to compel the State to appear in a proceeding, but it seems to me they should have permission to appear if they thought their interests warranted.

Mr. SIMS. And it would amount to their simply making an argument and getting what they could and taking what there was.

Mr. DOREMUS. I was just wondering if the Senator's purpose, the one he was just indicating here, would be served by some sort of a provision of that kind.

Mr. BRISTOW. It has been suggested to me that the valuation law, under which the Interstate Commerce Commission is now valuing the railroads, does provide that the States shall be included and service shall be rendered upon them of the tentative valuation of the railroads, and that they be permitted to be heard. The States are being heard under that, and it is quite a burden upon the States to

appear and take part in all these proceedings, but it is necessary and it would be very necessary under such a proceeding as you suggest. But some means ought to be provided whereby the States may protect themselves against abuses.

Senator CUMMINS. No matter what form it may take, the vital question is whether the decision shall finally rest with the Federal tribunal or with the State tribunal.

Mr. BRISTOW. I will say this, that I think the majority of the State commission think that ultimate authority should rest with the Federal Government. They do not all. There is a difference of opinion that is quite radical, some members of the committee of which I am chairman have radical notions. Judge Thompson, of Illinois, was to appear and make an argument, but he since has been retired from that commission and will not be here.

I was going to illustrate another phase of this that makes it very desirable that the States should have an opportunity to be heard and protect themselves, and that is in the reorganization of the Missouri Pacific they desire to eliminate the "Madison Branch." The Madison Branch was constructed a few miles in Missouri and 100 miles in Kansas, I think 4 miles in Missouri, some 30 years ago, and was acquired afterwards by the Missouri Pacific Railroad, but its organization separate and its bonds were bonds on the "Madison Branch" and not Missouri Pacific bonds. This branch never had been very prosperous. It had been neglected; the Missouri Pacific had operated it for approximately 30 years, and communities had developed along the line. In the meantime the territory had been crossed by a number of competing lines, and in the reorganization they sought to cast it off as an unprofitable branch. What would have become of it nobody knows. The Kansas commission held that the people who lived upon that road had a right to a railway service which they had had for a generation, and that the Missouri Pacific had no right to discontinue it, and insisted that it be retained as a part of the system. After a thorough investigation it was our opinion that if properly operated it would pay its way, and that branch lines, considered in and of themselves, frequently do not pay, but, as a part of a system, they are desirable, and certainly desirable so far as the public is concerned that depends upon them for facilities.

We had one case in regard to the maintaining of a passenger train on this branch that went to the Supreme Court of the United States, and the Supreme Court of the United States decided that it was a charter obligation of the company to maintain it and furnish the service. After the case had been heard, the Missouri Pacific revised its organization plans and took the Madison Branch, made some applications as to service on it, which were granted, and it is now being operated fairly well. If we had had nothing to do with bonding of the reorganized company, if the State had no authority, of course that would doubtless have been lost, greatly to the detriment of that section of the State of Kansas.

I offer this as a reason why this authority of the issuance of stocks and bonds should be controlled in some way by the States, so that the rights of the States may be protected in dealing with these local matters.

No public utility can transact business in Kansas without obtaining the authority from the commission, and of course that gives the



commission the opportunity to prevent duplication of service. The Kansas commission proceeds with a good deal of care in preventing the establishment of a utility if the investors think there is any necessity for it. We have refused to grant the authority where we thought it was for some purpose other than a good one, but as a rule we permit any investor to engage in public service who desires, and we are rather liberal in this respect.

The franchise can not be assigned, nor a property sold, without the consent of the commission. We may have refused to consent to the transfer or assignment of properties at some time, but I do not remember that we have. As a rule, it is always permitted. But we have the authority to inquire into the reasons for such sale.

If we had had this authority some years ago it would have been exercised in the case of railroads, and would have saved a great deal of trouble. I will not go into that now, because it is a detail, and I may refer to it later.

As to the service we can require a sufficient and efficient service. We can require passenger service or require trains to be run in addition to those that are run. We can forbid trains from being taken off that are in operation, and that is exercised some time against the protest of the carriers, but never unless the commission is convinced that the public service requires it.

Recently the Missouri Pacific Railroad came before the Kansas commission and asked it to discontinue 14 trains. We listened to their statements, investigated the matter, and consented for them to take them all off. It was urged upon the ground of military necessity. It appeared, after the trains were taken off, that there were two of the trains that should not have been taken off: that it served no military purpose. Mr. Bush, the president of the company, was before the commission, and from his statement it appeared that this train would serve a military purpose by its discontinuance, and its equipment could be used in the movement of military supplies, but he was mistaken as to that, misled by reports of his subordinates, of course, because he would not state it unless he believed it to be true. Complaints came, very bitter complaints, and justifiable complaints to the commission, and I notified Mr. Bush that he had been mistaken as to the train, and that it ought to be restored. He refused to restore it, I suppose, on the recommendation of insubordinates. The commission, as was its custom, immediately fixed a hearing at Jewell City, which was the principal town affected by the discontinuance of this train, and cited Missouri Pacific officials to show cause why it should not be restored. Then a representative of the Missouri Pacific came to the commission in Topeka and asked to confer with me after the conference and, examining the records we had there of the complaints, he notified us the train would be restored and it was restored.

If the people of that community had had to come to Washington, it would have been impossible. There was an injustice to those communities, a train that had been run for 40 years was discontinued inadvertently by the higher authorities of the Missouri Pacific system. And when they understood the local facts, as the commission understood them, they restored it. That illustrates the absolute importance to the people of these communities that the

State commissions, which represent them, have authority in local affairs.

Mr. SIMS. What would have been the penalty if they had refused to restore the train?

Mr. BRISTOW. Well, we would have made an order, and they could have gone to court; if we had succeeded in maintaining the order in court, they would have had to obey the order or pay \$100 a day fine.

Mr. SIMS. The penalty is \$100 a day for failure to comply?

Mr. BRISTOW. Yes. The regulation of carriers is a development. Our railroad commission was created first in Kansas in 1883. It was advisory, it had no authority, and of course practically it did not amount to anything. It had as its members some very estimable gentlemen, and gave them some very desirable positions for a number of years. In those days there were passes over all the railroads in the United States, and these men had good times, but so far as the effect of their official action it was of little consequence until 1905, when the commission was given authority to make orders and enforce them. Since then it has been effective. In 1911 the railroad commission was succeeded by the utilities commission, the existing body, and its authorities very greatly extended, and I am discussing the authority of that utilities commission now.

The tendency has been to increase the authority of the utilities commission. I think this is true throughout the Union. The increased authority gives better service, brings the carriers in closer contact with their constituents, and is useful to them. I am convinced of that. It is the practice of our commission, when a complaint is made as to service, to set the hearing in the community that is affected, invite the complainants to present their case and the railroad officials to be there and answer the complaints. We go to the towns and the public comes, sometimes in large numbers, and the railroad officials are there and the railroad officials hear the side of the public as presented to us.

Out there in our country it is presented with a good deal of vigor at times. The officials answer the accusations, and they are not always mild-mannered, but as a rule the result is there is a much better understanding, as railroad gentlemen well know, between the patrons of the road and the officers of the road, especially the operating officers.

I remember we had one case in regard to the discontinuance of some trains requested by the Union Pacific Railroad on what is called the Lincoln Branch and on the main line west of Salina. There were about 30 towns interested, and we set the hearing at Salina. They were well represented by their boards of trade and large shippers, and when they met in the city hall there were 50 or 75 men there representing the shipment of millions of tons, and they expressed themselves unhesitatingly in regard to the necessity of these trains and their desirability and usefulness. Mr. Loomis, the general attorney for the system, was there and represented the carrier, also the general passenger agent and a number of subordinate officers, including the general superintendent. After the hearing was over and both sides had been heard Mr. Loomis, representing the company, stated that the road would not ask for the discontinuance of those trains at that time and would not request it at all unless the military

emergency became so acute that it was necessary, and in that event he would appeal to the commission for such permission. It was settled. Everybody was satisfied. There has been no such request and I am not anticipating any, because the trains are needed, and I think the statements made convinced the responsible officers of this company they ought not to be removed. It was not to the interest of the company nor to the interest of their patrons to have them removed.

Now, gentlemen, we have hearings of that kind in Kansas every month, not only relating to railroads but every other kind of utility, and it is exceedingly useful, and if the railroad officers in the last 30 years had had to meet the complaints of their patrons direct there would have been a much better feeling in many communities than there is now.

We have, as the other commissions have indicated to you, two forms of complaint. There is the formal complaint and the informal complaint. Every day there comes some kind of complaint to the commission against some public-service utility, and every day, I think, against the railroads. Some of them are simple, some of them are not sound. We take it up by correspondence with the carriers and the carriers explain their side of it. We send a copy of that letter to the complainant. Frequently that is the end of it, because the complainant is satisfied with the letter. Frequently the carrier meets the complaint without any hesitation. That ends it. We have hundreds of cases like that that never go any further.

We have not any authority to collect claims, but I suppose we all adjust those. Some man ships his household goods and claims there has been an overcharge. We take it up with the company and ask the company to adjust it. The company goes there and adjusts it, and we hardly ever hear about it any more. We are a kind of clearing house for complaints of that kind, and the commission is very useful to a great many people who never could go to court without great expense, and never would.

When one of the commissioners was appearing before this committee, I think Mr. Esch asked, or referred to a large number of informal complaints that come before the Interstate Commerce Commission that are never heard of. The policy of the commission is to ask the carrier to make a statement, as I understand it, and the statement is sent to the complainant and he is advised, if he wants to make a further complaint, to make it, and the commission never hears of it any more. Of course it would not unless there was a large amount involved, because the ordinary man can not afford to go before the Interstate Commerce Commission. It costs him too much. We had a complaint—a shipper in my community, I remember, had a complaint—against the Union Pacific some years ago in regard to the sugar rate, and he took it before the Interstate Commerce Commission, and it cost him \$5,000 in expenses ultimately to get what was manifestly just: he finally got his decision, but it is too expensive: the ordinary man can not do it. It is just as desirable to have these functions exercised by State commissions as to have your local courts, your local State governments, or any other kind of local government within the community.

We have the informal complaint. If we can not adjust the difference we set it for hearing and hear the complaint and pass upon it.



We are very liberal. We also, if we think a condition is undesirable and ought to be investigated, start an investigation on our own motion and cite the railroads to appear and have hearings of that kind.

To show the nature of these complaints, the character of them, I will read some of the statistics that I had compiled of the action of our commission for two years.

From December 1, 1914, to November 30, 1916—this was prepared when the hearings started, after the railroads had made their initial statement, and intended to be used, supposing that the hearings would continue, and I have not had them brought down to date because I did not think it necessary. It would not show any material difference in the situation, but during those two years there were formal complaints filed against the railroads in Kansas, 33 in regard to rates, 19 in regard to service, 24 in regard to facilities—that is, insufficient depot facilities or sidings, or something of that kind—and 7 relating to other matters. Those were the formal complaints.

Of informal complaints, there were 96 relating to rates, 87 relating to service, 132 to facilities, and 293 to other matters: 199 of the 293 related to car shortages. The car shortages in Kansas last year were much more acute than they are this year.

Now, it may be interesting to know how these complaints are disposed of.

Senator ROBINSON. Could you state briefly what you attribute that fact to?

Mr. BRISTOW. The heavy wheat crop we had last year. We had a short wheat crop this year. The car shortage in Kansas last year was very acute.

It may be of some interest to this committee for me to explain to you gentlemen just the nature of these complaints, 199. I will tell you about the case at Ellis, because it will give you an idea as to how the commission operates. There are three elevators at Ellis. It is in central Kansas, in Ellis County. It is a great wheat country. Those elevators were all full, and bitter complaint was made that there were no cars. We took that up with the Union Pacific, and we set a hearing at Ellis. The shippers were there, and the representatives of the public were there. The commission investigated the situation personally. The day we were there there were 150 wagons full of wheat standing around the elevators: all three of them were full, and they were only getting a car or so a day. Some of these wagons the farmers had driven in from 10 to 12 miles, and they could not sell their wheat, there was no place to put it, and there they waited. Some of them had to leave their wagons there a week.

At a station some 40 miles west they dumped the wheat out on the ground, so that I saw there at one time last fall at least 25,000 bushels of wheat piled out on the ground: it rained on it and it was growing around the edges and out the top, a good deal of it spoiled. After the hearing we decided the case and outlined a rule for furnishing cars. A committee of farmers visited the legislature last winter and undertook to get a law passed requiring the railroads to furnish the cars and fixing a penalty if they did not, but it was compromised finally between the carriers and the representatives of the committee by leaving it in the hands of the utility commission to adjust any complaints and difficulties, and we formulated a rule, and the carriers are

undertaking to carry it out. It is satisfactory to both the shippers and the carriers. It is only troublesome when the carriers have not the cars to keep the elevators open. Our finding was that they should keep the elevators open so any man who owned an elevator could be in the market to buy the grain, so that when a farmer came in with his grain he could have the advantage of a competitive market. If the elevators were all full and there were a lot of wagons standing around, they were to permit them to unload from the wagons first, so as to relieve the farmer, his team and wagon, and let him go back home. The rule has worked very well.

The Interstate Commerce Commission can not have an agency that can perform those functions so well as the States; it is too remote. The carriers got rid of a violent controversy there that was damaging and somewhat dangerous, because there was great ill feeling engendered, but when the farmers saw that the commission was doing everything it could, they believed it was trying to help them and felt friendly, and the carriers submitted to our authority in the matter.

Here, gentlemen, I want to make this observation, and I think it is sound—that a local authority, that understands the people, that comes in daily contact with them, is a better authority to handle those local affairs than any authority located 1,000 or 1,500 miles away. It can be done better, and I know it is better for the carriers. As a rule you get good men in these positions; you have got to trust men in some capacity, and my experience has been that the men who are performing these functions of State railway commissions are as high a grade of men as you will find in the service anywhere. They measure up to the responsibility just as well as men do in any line of public service I have ever been familiar with.

As to the disposition of these cases, I have just given you the number of the cases. Sometimes these cases are brought by the railroads themselves. They frequently make requests of the commission, request to increase rates, request to decrease rates, requests for changing facilities, service, and so forth. You can not decrease a rate in Kansas without the consent of the commission, and you can not increase a rate in Kansas without the consent of the commission. You can not establish a service without the consent of the commission, so that the railroads frequently bring cases to us.

The railroads applied during this period of time for 99 increases of rates. Thirty-six of them were granted, 3 of them were granted in part, 21 were denied, 3 were withdrawn, and 36 pending at the time these statistics were compiled.

Mr. SIMS. Covering what period of time?

Mr. BRISTOW. Two years. Now, the Kansas Commission has been accused, I think probably in this hearing, of being unnecessarily severe on corporations. I do not think it is. We granted more increases than we denied.

The carriers requested permission to decrease 135 rates. We granted 115, granted 1 in part, denied 1, 4 were withdrawn, and 14 were pending.

Mr. SIMS. Do all these increases and decreases apply only to intrastate rates?

Mr. BRISTOW. Only to intrastate rates, yes.

The carriers applied for the issuing of stocks and bonds in 19 cases. Fifteen were granted, 1 was denied, 1 withdrawn, and 2 were pending

at the close of the period referred to. I think the Orient case that I referred to was the one that was denied, but I would not be positive about that.

For certificates of convenience to transact business there were five requests.

Senator ROBINSON. What is that, Senator?

Mr. BRISTOW. That is the term used in the Kansas statute for authority to do business; that is, engage in the business of a public utility. Four of them were granted, and one of them was pending.

For approval of sales and leases, one application, which was granted.

For railroad crossings, cases relating to railroad crossings made by the carriers, there were 21, all told; 17 were granted, 1 was withdrawn, and 3 were pending.

To make changes in rules and regulations, there were 17 requests, 14 were granted, 1 denied, 1 was withdrawn, and 1 pending.

Other cases relating to other matters that have not been classified, there were 36—33 granted, 2 denied, and 1 was withdrawn.

That shows, I think, at least that is my view of it, that the Kansas commission does consider these cases with care with a view of determining what ought to be done, and then exercises its judgment.

As I said we can institute proceedings on our own motion, and during this period of time there were 18 of such cases instituted by the commission. Seven related to rates, 3 to service, 1 to rules and regulations, and 7 to accidents. We have authority there in connection with the labor commissioner to investigate railway accidents, where death or serious injury has resulted.

To summarize the business during this biennial period before the commission of Kansas, that is, on December 1, 1914, there were pending 23 cases relating to rates, 7 rate adjustments, and 74 cases referring to general railway matters, including some general rate cases. There were filed from December 1, 1914, to November 1, 1916, a period of two years, 714 cases. The total number of cases before the commissioners in that period was 911. There were 733 determined during that period.

Mr. SIMS. Disposed of, you mean?

Mr. BRISTOW. Disposed of, yes, leaving 178 pending at the close. Of course they were disposed of in the regular way. Of these 911 cases, 421 of them related to railroads, so that practically one-half of the business related to railroads.

To show what phase of our industrial and commercial life is affected by the action of the commission, these cases related to the following subjects: Rates, rules, and regulations affecting transportation, classification, depot facilities, freight facilities, track connections, train service, interlocking devices, one railroad crossing another, switches to elevators and coal chutes, switch connections, and demurrage rules. Those are the subjects that were treated in formal complaints. In the informal complaints the following subjects were treated, of course including many of those that I have just referred to: Switches, depot facilities, rate adjustments, special rates, demurrage rules, car shortages, stoppages of trains, over and under charges, and elevator sites.

To show the nature of some of these cases: The carriers complained that it was not possible to live up to the statute prescribed by the legislature for weighing coal in carloads, whereupon the commission



called a conference of the coal miners, dealers, and representatives of carriers, and rules were agreed upon and formulated. These rules were not accepted by the carriers at that time. There were six Osage coal rates that grew out of this controversy; the coal operators of the Osage field complained to the commission that owing to the depth of their coal and the shallowness of the vein, they were not able to compete with other coal operators, nor were they able to get their coal to many of the markets of the State. The coal produced by them was of high grade, and many consumers desired it. In a conference between the coal operators and the railroads satisfactory rates were established.

*Car shortage.*—During the past year and a half there has been a great car shortage in Kansas. The commission called a conference of the shippers and representatives of the carriers. At this conference it developed that a number of shippers were using cars for storage purposes at terminal points, because of the very low demurrage rate. The commission promptly made an order increasing the demurrage rates to such an extent that a shipper could not afford to use cars for storage purposes, thus releasing these cars for transportation purposes.

It has been our policy, where a statute was enacted, to undertake to enforce it if it is workable. If it is not workable under certain conditions, we have the authority to modify it, but that is never done unless it is absolutely necessary.

We ordered, in compliance with this statute, these scales installed, and the carriers took the case to court, and the court decided that the stock scale at a railway station was not a necessary transportation facility, and that the statute was unconstitutional.

A number of small complaints as to overcharges, undercharges, lining up of rates and schedules, claims against the carriers for damages, switches to sidetracks and elevators, and proper supply and distribution of cars so that the freight of the State may be promptly moved have been thus adjusted.

The following cases have been brought by carriers in the courts to set aside the order of the commission:

The *A. T. & S. F. Co. v. Comm.*, in the District Court of Shawnee County, Kans., and the *Mo. Pac. Ry. Co. v. Comm.*, were brought to set aside the orders of the commission requiring the carriers to establish stock scales at Welda and Michigan, Kans. The order was made under a specific statute requiring the railroads to install such scales. The district court held the law unconstitutional. Cases were not appealed, because a similar law of Minnesota had been held unconstitutional by the Supreme Court of the United States.

The *C., R. I. & P. Ry. Co. v. Comm.*, in the District Court of Shawnee County. Action brought to set aside order of commission requiring the railroad to establish and maintain suitable freight depot at Kansas City, Kans. Order complied with. Case dismissed by plaintiff.

The *A. T. & S. F. Ry. Co. v. Comm.*, and the *U. P. R. R. Co. v. Comm.*, were two cases brought by the above plaintiffs to set aside an order of the commission requiring them to make a connection between their tracks at Solomon City, Kans. Cases tried in the Shawnee County District Court and judgment rendered sustaining

the order of the commission. Carriers complied with the order. No appeal was taken.

The CHAIRMAN. Did I understand you to say that the commission had the authority to modify a statute?

Mr. BRISTOW. Yes; I will explain that later in a case we had. I will come to that soon, Senator, if you will pardon me.

This Solomon City, Santa Fe, Union Pacific connection case was one of those cases where the railroads did not want the connection, because if they could not transfer there it would force a longer haul on their lines, and we held their business was primarily to serve the public, and the shortest and most direct route ought to be made, and each carrier get what he was entitled to for the service rendered, not force an out of line haul in order that one carrier might get more out of that haul than he otherwise would, and the position was sustained, as it ought to have been.

The *St. Louis & San Francisco R. R. Co. v. Comm.; M. K. & T. Ry. Co. v. Comm.; C. R. I. & P. Ry. Co., U. P. R. R. Co. v. Comm.; A., T. & S. F. Ry. Co. v. Comm.*; and *Mo. Pac. Ry. Co. v. Comm.* were all cases brought by the above plaintiffs to set aside the order of the commission establishing coal rates from the Osage coal district to various points in Kansas. After the cases were filed, the carriers and coal operators established rates mutually satisfactory and that were in substantial compliance with the orders of the commission, and plaintiffs dismissed their cases.

The cases were filed, but after the cases were filed the commission made this order and the carriers dismissed the case, and it is just and satisfactory and has been in force since, not to the detriment of anybody, but to the benefit of all, because they made a market for that coal, which is desirable, and has furnished a traffic to the railroads which is profitable.

*A., T. & S. F. Ry. Co. v. Comm.* An action brought in the District Court of Shawnee County to set aside the order of the commission requiring the plaintiff to construct a siding on its line between Madison and Hamilton, in Greenwood County. Case submitted, but no decision yet rendered.

*Atchison, Topeka & Santa Fe Ry. Co. v. Commission.*—An action brought in the District Court of Shawnee County, Kans., to set aside an order of the commission requiring the carrier to establish suitable stockyards and station facilities at a point between Meriden and Rock Creek on the Atchison branch of its road. Case pending.

*Chicago, Rock Island & Pacific Ry. Co. v. Commission.*—Action brought in the District Court of Shawnee County, Kans., to set aside an order of the commission requiring the plaintiff to stop its passenger train No. 12 at Lincolnville, Kans. Order of the commission complied with. Case dismissed by plaintiff.

Senator CUMMINS. What was its decision?

Mr. BRISTOW. To stop the train. We made the order that the train should stop there. The road went into court, but afterwards dismissed the case.

*Chicago, Rock Island & Pacific Ry. Co. v. Commission.*—An action brought by the plaintiff in the District Court of Shawnee County, Kans., to set aside an order of the commission requiring the plaintiff to switch cars to the R. C. Davidson elevator at South Dodge City. Case just filed and pending.

That shows the selfishness at times of corporations. Mr. Davidson built his elevator on the Rock Island line at Dodge City. The Rock Island and Santa Fe both go there. He could get customers for his grain on the Santa Fe as well as on the Rock Island, and he wanted the Rock Island to switch the cars from his elevator to the Santa Fe track in order that the Santa Fe might take them on to their destination on the Santa Fe lines. The Rock Island refused to do it because it wanted to haul that grain itself to some place else. That limited Mr. Davidson's market, of course, to Rock Island territory, or until the Rock Island got a considerable haul out of it, then it would transfer it. The commission heard the case and held that the Rock Island should switch those cars for a reasonable charge; that it was entitled to a reasonable compensation for the service that it rendered, but that it should not have authority to determine what market this man should have for his product; that it was its obligation to serve him and his obligation to pay the road a reasonable figure. I have not any doubt what the decision will be when it comes down from the court. That is a recent case.

*Joplin & Pittsburg Ry. Co. v. Commission.*—An action brought in the District Court of the United States to set aside the order of the commission requiring plaintiff to establish proper toilet facilities upon their interurban cars. Case still pending.

*Atchison, Topeka & Santa Fe Ry. Co. v. Commission.*—An action brought in the District Court of Shawnee County to set aside the order of the commission requiring the plaintiff to establish proper station facilities at Radley, Kans. Order complied with. Case dismissed by plaintiff.

*St. Joseph & Grand Island R. R. Co. v. Commission.*—An action brought in the District Court of Shawnee County, Kans., to set aside an order of the commission requiring the plaintiff to construct proper freight depot facilities and to maintain a station agent at Blair, Kans. Order complied with and case dismissed by plaintiff.

*Chicago, Rock Island & Pacific Ry. Co. v. Commission.*—An action brought in the District Court of Shawnee County, Kans., to set aside the order of the commission requiring plaintiff to establish proper station facilities, both freight and passenger, and to maintain an agent at Blair, Kans. Order complied with and case dismissed by plaintiff.

*The Anthony & Northern Ry. Co. and Missouri Pacific Ry. Co. v. Commission.*—An action brought in the District Court of Shawnee County, Kans., by the plaintiffs to set aside the order of the commission establishing joint rates from Wichita, Kans., to Byers, Hoopwell, and Trousdale, on the line of the Anthony & Northern. Case still pending.

That is establishing through rates, joint rates. The present rate is the sum of the locals. We have the authority to establish a through rate and fix the division.

MR. SIMS. When it goes beyond the border of the State?

MR. BRISTOW. Except when it goes beyond the border of the State. That case is still pending. The court will determine whether the order was a reasonable one or not. There are some questions involved in that which we would like to have determined, as well as to



determine just what the courts will hold is equity in the adjustment of such a rate condition.

*A., T. & S. F. Ry. Co. v. Comm.*; *C., R. I. & P. Ry. Co. v. Comm.*; *U. P. R. R. Co. v. Comm.*; and *M., K. & T. Ry. Co. v. Comm.*, were cases brought by the above plaintiffs in the Shawnee County District Court for the purpose of setting aside an order of the commission establishing rates on cement from stations in southeast and east Kansas to Kansas City, Kans. Order complied with and cases dismissed by plaintiffs.

*U. P. R. R. Co. v. Comm.* An action brought to set aside the order of the commission requiring the plaintiff to install and maintain a proper farm crossing on the farm of T. I. Eddy, at Havensville, Kans. Order set aside by district court of Shawnee County, Kans. Order of lower court sustained by Kansas Supreme Court. Case reported in 98 Kans., at page 667.

That case was brought under a statute that requires us to direct the railroads to authorize such crossings upon the payment of certain charges, and this case is still pending; but in another case the supreme court of our State has held that the law was unconstitutional, and that case will fail with the other cases of a similar character.

*A., T. & S. F. Ry. Co. v. Comm.* An action brought in the District Court of Shawnee County, Kans., to set aside the order of the commission establishing a rate of \$1.20 per ton on pea, nut, and slack coal from the Pittsburgh district to Concordia, Kans. Order of commission set aside by district court. Decision of district court overruled by the Kansas Supreme Court. Opinion reported in the 95 Kans., page 604.

*The Union Pacific R. R. Co. v. Comm.* An action brought to set aside the order of the commission establishing a rate of \$1.20 a ton on pea, nut, and slack coal from Pittsburgh coal district to Concordia, Kans. Order of the commission set aside by district court. Decision of lower court sustained by the supreme court upon rehearing. Opinion of supreme court, 95 Kans., page 604. Opinion on rehearing, 96 Kans., 296. The reason for sustaining the opinion of the lower court in this case and overruling it in the case above was that the Atchison, Topeka & Santa Fe Railway Co. had voluntarily established a rate of \$1 to Abilene, Kans. The commission, in fixing the Concordia rate, had added to the Abilene rate the rate prescribed by the Kansas distance tariff, which was 20 cents. The Union Pacific had never participated in the \$1 rate to Abilene.

The commission had a hearing and fixed \$1.20 per ton as a fair rate to the Santa Fe, and the Santa Fe contested it, but the court sustained the order of the commission and the rate prevailed. We fixed the same, or the commission did—that was before I became a member of it; the same rate for the Union Pacific, and the Union Pacific contested the order, and the court sustained the road in that case, after reviewing the case, and I am inclined to think it ought to, because the mileage of the Union Pacific was greater than that of the Santa Fe, and if the Union Pacific did not want to meet that rate, it ought not to be required to, in my judgment, if the mileage and the expense of hauling it was such that it was not justified in doing it for the compensation.

This gives you a general notion as to the cases that go to the courts, the nature of them, and I do not think there has ever been a case where the courts did not protect all of the rights of the car-

riers, and I think it is very fortunate and desirable, for commissions as well as carriers, that there is a judicial tribunal to pass upon these matters, and that everybody submit to it.

While we have a good deal of litigation and have some pending now, I think that the Kansas commission has a fairly good record, and I think that probably it would average with other commissions. Of these 22 cases it has been reversed in but 4 that were heard, and it was sustained or the cases were dismissed in 18. Of the orders that the commission has issued, there has only been 3 per cent taken to the courts, and only 18 per cent of those taken to the courts by the carriers have been decided in the carriers' favor.

If the Kansas commission was not rendering a valuable and useful public service, no record such as that would exist. I think that if you take the percentage of litigation that grows out of the controversies of men, it would be very rare that such a per cent would be on one side as that.

Of course I suppose I should discuss the Kansas Two-Cent Passenger Rate Case. That has been pointed to here by the gentlemen presenting the carriers' side of the question as one of the enormities of State regulation.

When the Kansas public utilities statute was passed, the rates prevailing at that time in the State were made the legal rates. They were all voluntary rates, except the 2-cent passenger rate was in the nature of a legislative compromise. The State was contemplating the passage of a 2-cent passenger fare law.

I just happened to think, Senator Newlands, that you asked me about setting aside a statute, and before I go into this I must answer your question.

We can modify a rate, even if it is a statute rate; the law gives us that authority. A law was passed in Kansas requiring coal railroads to weigh their coal cars within 48 hours of the time they were loaded. That came about because the stenciled weight of cars would be used and sometimes they would be covered with snow and ice, and they would weigh more, and the dealers thought they were not getting a fair weight on their coal, and so some of them went to the legislature and got this law passed. It was not practicable to do it; it was very expensive to do it. To have switched those coal cars to a scale and weighed them within 48 hours of the loading would have necessitated a great deal of switching that was not necessary to be done; it was not practicable to do it. The railroads came to the commission for relief from this statute. We set the case for hearing down in the coal-producing region, where the men who had been responsible for the statute lived and transacted their business, and everybody was there and we heard the complaints of the carriers and those that were responsible for the legislation saw the difficulties, and we made an order modifying the statute, setting it aside as a matter of fact, and correcting the imperfections of it. Now, while we have got that authority it is very rarely used, because it is the policy of the Kansas commission to respect a statute that is made by the body creating it. It must do that.

The CHAIRMAN. Does that power given to the commission relate only to statutes that regulate rates?

Mr. BRISTOW. Oh, no; this was not a rate case, this was a question of weighing cars.

The CHAIRMAN. Or that regulate——

Mr. BRISTOW. That statute fixed an oil rate in Kansas, a maximum rate on oil. The State has very few industrial rates. It was the opinion of the attorneys of the commission that we had the authority to set that rate aside or modify it, but we will not do it, because we do not intend to set aside any statute rate or statutory proceeding unless it manifestly imposes unreasonable hardships.

Senator TOWNSEND. Have you had any other rate cases where you have overridden the statute tested in the courts?

Mr. BRISTOW. No; because they have been so plainly necessary that they are accepted.

The CHAIRMAN. In what wording is that power given to the commission? Have you got it there?

Mr. BRISTOW. I have not got it. I would be very glad to send it to you.

Now as to the passenger rate case. The existing rates in 1911, the 1st day of February, 1911, were made the lawful rates in Kansas, and they can not be changed without the consent of the commission. The 2-cent passenger rate was then prevailing as the result of a legislative compromise some years ago, but it had been modified and the carriers had filed their schedules year after year and accepted that as the passenger rate. It was not forced by any statutory enactment. It was simply put in by them, as they said, to avoid a statutory enactment. It has been modified in some instances, more than 2 cents charged, where it has been authorized by the commission. The carriers, I think in 1914, brought a case before the commission asking that the rates be increased from 2 cents to 3 cents per mile. The case was set for hearing on the 5th day of April, 1915, and we heard the case. It was continued from time to time at the request of the carriers, and was under consideration for about two years, and last July, I believe it was, I have forgotten the exact date now, it was decided, and we held that 2 cents a mile for passenger service in Kansas was compensatory. It would probably not be interesting for me to discuss the details that led up to that conclusion in their entirety, especially the accounting details, but the Kansas commission is firmly convinced that its decision is equitable and sound, that the revenues obtained are fully compensatory.

Senator CUMMINS. Was it in that case you investigated the difference between the cost of carrying intrastate passengers as distinguished from interstate passengers?

Mr. BRISTOW. Yes; we went into that thoroughly. First, we separated the cost of the passenger service, and the freight service, and used a formula which we believe is just; the principal point of difference there was the cost of maintaining the structures and the right of way. In that we followed two plans in our accounting, one was the gross ton-mile, and the other was the formula used by the Interstate Commerce Commission when it decided the Western Advance Rate Case. The carriers insisted on the engine ton-mile, which takes the weight of the engine and measures the charge against the passenger service on the weight of the engine and its speed, and the same as to the freight engine. We maintained that was unjust, as it charged the passenger service too high a per cent of the maintenance of the ways and structures. We in the decision worked out



this expense according to the gross ton-mile and the Interstate Commerce Commission's formula.

The greatest controversy was on what is a proper line charge and what is a proper terminal charge.

The Kansas commission insists that the expense of running a train from the time it starts and reaches its destination is a line charge; that the terminal charges are the charges relating to the maintenance and upkeep of the terminal. The carriers insisted that when a passenger train stops that the expense of stopping, estimated on some theory, and the expense of starting, that the time that is occupied in the stops, that the expense of the railway men while they are waiting for the train to start, and a lot of other such expenses should be charged as a terminal charge. And since every intrastate movement has two terminals and every interstate movement so far as State rates are concerned only one, by this system of accounting, which we insist never has been justified by any court or any commission, they load the intrastate passenger service with an excessive cost. We expect to prove before the United States court, where this case now is, that our system of accounting is right. Of course, time will have to determine whether we satisfy the court as to that or not.

I want to call your attention to this fact of passenger rate charges. Local traffic costs less per mile than interstate traffic. Now, that is violently contradicted by the railways, but without foundation, in my judgment. In Kansas, and throughout the country, the expensive part of the passenger train is the Pullman service. The interstate passenger uses the expensive service, the heavy trains are made for interstate business.

I will just give you a little illustration as to the expense of the interstate business. An inquiry made on the Rock Island Railroad in Kansas shows that the Pullman passengers use 10.45 car foot per passenger—that is, for every Pullman passenger the railroad pulls 10.45 feet of car.

Senator TOWNSEND. What do you mean by that? What kind of feet?

Mr. BRISTOW. Length, linear. For every day-coach passenger they pull 2.56 feet. So that in the day coaches the passenger uses only  $2\frac{1}{2}$  feet, while in the Pullman coaches he uses  $10\frac{1}{2}$  feet of space.

Mr. ESCH. You have not any calculations based upon the amount of tonnage hauled by a passenger train to a passenger?

Mr. BRISTOW. No; we did not work that out. We thought that this car-foot mile would be the equivalent, except the tonnage would be greater per foot on the interstate business because the Pullman is the much heavier of the two cars. It would exaggerate these differences as between the cost of Pullman passenger and the day-coach passenger.

Mr. SIMS. Do not the State passengers in the interstate trip sometimes use the Pullman?

Mr. BRISTOW. Yes; but on the Rock Island Railroad, of the passengers that use the Pullmans there are 95.56 per cent interstate passengers and 4.42 intrastate passengers; that is, on this road in Kansas practically  $95\frac{1}{2}$  per cent of the passengers in the Pullman cars are interstate passengers and  $4\frac{1}{2}$  per cent are State passengers. Of course, there are interstate passengers who use the day coach. Taking the whole train, the interstate passenger uses 5.5 feet of car

space and the State passenger 2.88 feet; that is, the interstate passenger as a whole, taking all the train, uses almost double as much space as the State passenger does.

This varies with the various railroads. Take the Santa Fe. On the Santa Fe, 3.11 per cent of the Pullman passengers are intrastate passengers and 96.89 per cent are interstate passengers. The Santa Fe has a better Pullman patronage than the Rock Island has. It uses for each Pullman passenger 7.3 per cent car feet of space and for the day-coach passenger 3.12 feet. The M., K. & T., only 0.36 per cent of the passengers in Kansas that ride in the Pullmans are State passengers and 99.64 per cent are interstate passengers. On the Frisco, 3.24 per cent are State and 96.76 are interstate. The Missouri Pacific, 3.97 are State and 96.03 are interstate. The Union Pacific, 7.43 are State and 92.57 interstate.

When you take into consideration that the use that is made of the trains by the interstate passenger, and the fact that the expensive equipment, not only to acquire but to move, is primarily for the interstate service, it is to my mind compelling evidence that the interstate passenger service is the most expensive to handle.

Mr. ESCH. Do you take into account there the lessened income to the carriers on the land-grant roads and interstate traffic?

Mr. BRISTOW. No; we do not.

Mr. ESCH. Of course, in war time that would be a very appreciable amount.

Mr. BRISTOW. Yes; that is true so far as movement of war material is concerned, but the testimony before our commission is that the most profitable passenger service which the railroads have is their movement of troops. I do not remember just what case it is now, and I could not refer to it accurately, but there was a statement made to us that the earnings of the trains that hauled troops was about \$6.50 a mile, while the ordinary earnings of a passenger train is about \$2 to \$3.

Senator CUMMINS. What was the outcome of that controversy? Does the railroad charge more per mile now for carrying a passenger from Kansas City, Mo., for instance, to Salina, than it does for carrying a passenger from Kansas City, Kans., to Salina?

Mr. BRISTOW. Yes; I want to discuss that, and I discuss this with great respect to the Interstate Commerce Commission, and what I say is not meant to reflect on their good purposes or on their intelligence at all, but their decision as far as Kansas is concerned is ridiculous, and I will tell you why.

They charge 2.4 cents a mile for interstate passengers north of the Union Pacific; that is, on the Union Pacific main line and north. The interstate rate, under the decision of the commission, is 2.4 cents. South of the Union Pacific main line it is 2.6 per mile. Now, the contour of the country is the same; there is practically no difference, the density of traffic is south; there is more traffic south than north. There is no reason given in the decision, except they project a line that exists in Missouri wherein the north is cheaper than the south, due to some Ozark Mountain conditions, or something of the kind that existed away back in the past that we do not know anything about, except from tradition and rumor. The railroads asked in their application in the interstate case for 2.5 cents north and 3 cents south of this line. I do not know why they made that request,

except that it is rumored, and I do not know whether I ought to state a rumor or not; but it impressed me as probably being the reason that the Union Pacific was not willing to ask for 3 cents; did not think it was desirable or advisable, and the Santa Fe and the southern lines wanted 3 cents, and as a compromise in getting up their case they made this division. That is the rumor that floated around among those who were in charge of the case on both sides; but if you buy a ticket from Wichita, Kans., which is the largest city in the State, to Kansas City, Mo., it costs 2.6 cents per mile to-day; if you buy it to Kansas City, Kans., it costs 2 cents.

Mr. SIMS. From the same point to the same point?

Mr. BRISTOW. One is Kansas City, Mo., and the other is Kansas City, Kans.

Mr. SIMS. I know; but physically speaking?

Mr. BRISTOW. Yes; the man goes to Kansas City, Kans., gets off there, and takes a street car and goes anywhere he wants to in either Kansas City, Kans., or Kansas City, Mo. It is the same city, except divided by State line.

Mr. ESCH. Is there a bridge charge?

Mr. BRISTOW. No; no bridge charge there. It is the Kansas River. There is at St. Joseph. That is somewhat different. A great many people take advantage and pay a 2-cent rate. It is a subject of controversy, and it is unfortunate. It is somewhat disagreeable to the carriers and sometimes to the public. We asked that the Interstate Commerce Commission be made a party to this suit in order that we might contest with them the equity and justice of our rate as compared with theirs before the court. They have declined to come in, and the court would not compel them to.

Mr. ESCH. They got into the Illinois Rate cases.

Mr. BRISTOW. They did not get into the trial, though, did they? They did not get into the trial of that case. There is this difference. The State commissions can not take the interstate rates into court; we have not found any way of doing that. If we could have induced the Interstate Commerce Commission to have become a party to this case, we believe then that we could test their rates with ours.

Now, how did they arrive at this 2.6-cent rate in southern Kansas? They took a number of roads—the Frisco, the M., K. & T., and some other roads of rather poor value—as the sample roads in fixing our southern rate. In the Western Advance Rate case, the Interstate Commerce Commission took 41 roads as to the general rate conditions, and upon the showing of the 41 roads they came to the conclusion that the rate south should be 2.6 cents. Of the southern roads there were many roads that were not doing well; but at least 75 per cent, I think, more of the passenger business in southern Kansas in this 2.6-cent area is done by the Santa Fe Railroad, and the business of the Santa Fe Railroad was not one of the roads that was taken into consideration in fixing a 2.6-cent rate for southern Kansas.

Senator TOWNSEND. What per cent do you say it figured out?

Mr. BRISTOW. At least 75 per cent of it. I am discussing this intrastate Kansas rate, and my criticism of the Interstate Commerce Commission is they did not examine the traffic of Kansas in order to arrive at that conclusion, because they took roads that do less than one-fourth of the business so far as Kansas is concerned. We took all of them, examined the business of everyone of them, and I think



there ought to be some way by which the State can have the courts pass upon the rate which the Interstate Commerce Commission forces upon it, contrary to the judgment of its constituted authorities as to what is fair and equitable.

The CHAIRMAN. You mean as a proper State rate?

Mr. BRISTOW. Yes.

Senator CUMMINS. Does that mean that you think that the State should have the same right to challenge an interstate rate because it is discriminatory that the Federal Government insists upon in its challenge of a State rate, because it is discriminatory?

Mr. BRISTOW. I think so, Senator; that expresses my views exactly.

I have got an opinion with me, some copies of it, but unless you gentlemen want it I would not ask you to read it because it might be a bore to you, but the Kansas commission spent two years in the investigation of this case; it employed as able accountants and experts as it could find; its commission has absolute confidence in the equity and justice of its conclusions; it examined the traffic in the territory in detail of all of the roads. The Interstate Commerce Commission examined in the southern half of the State the traffic of the roads that do less than 25 per cent of the business, and based its decision, so far as Kansas is concerned, upon the business of these roads, and those are the roads that are decrepit and were in the hands of the receivers, while the great Santa Fe system, which does more than 50 per cent of the business of the entire State, was not taken into consideration at all.

Mr. ESCH. What effect would it have on those decrepit roads if they only were permitted to charge 2.4 cents?

Mr. BRISTOW. I do not know as to that, but that brings up another question which I will submit to you gentlemen now. It is frequently the case that a rate will not be remunerative to one road in competing territory that is remunerative to another. And I have got some suggestions to make to you later in regard to that, after I have closed these details.

Mr. ESCH. That is the question that is bothering all of us.

Mr. BRISTOW. And I have got some very positive notions, Mr. Esch, in regard to that, to discuss with you just as soon as I get through these other matters.

I do not think of any other phase of the Kansas rate case that I desire to discuss, but this I want to impress upon you gentlemen, you have the responsibility of this legislation very largely, and that is why the Kansas commission is maintaining what it believes to be right, and it has reasons that it offers for it: its action in this rate case may be set aside, and it is denied the opportunity to prove in court that the rates fixed by the Interstate Commerce Commission are excessive, unjust, and ought not to be charged. We think we ought to have the right, just as Senator Cummins has expressed it. We regret very much that the Interstate Commerce Commission did not voluntarily come in court, as we requested, and try that out.

The Western Advance Rate case, upon which this 2.4 and 2.6 cent fares was determined, was not tried as a State commission has to try its cases. The rules prescribed in the Minnesota Rate case for the accounting were not followed in the trial of that case, but the States have to follow these rules because in case of an appeal or an injunc-

tion proceedings in the courts against a State rate the State has to meet the issues there according to rules laid down by the Supreme Court decisions. We can not challenge in court the decision of the Interstate Commerce Commission, so it does not have to conform to the rules of legal evidence to the extent that State commissions do. It is not necessary, because the railroads are the only ones that can appeal from it.

Mr. SIMS. Was your 2-cent rate a rate made by the legislature?

Mr. BRISTOW. No; that is a voluntary rate put in as the result of a controversy there in 1907.

Mr. SIMS. It was a railroad-made rate?

Mr. BRISTOW. It was a railroad-made rate, but made a lawful rate by the State in 1911.

Mr. SIMS. Now, then, the statute in Kansas made the existing rates the statutory rates?

Mr. BRISTOW. Made the existing rates the statutory rates, except in so far as they have been changed by the commission.

Mr. SIMS. And this controversy, then—it was made a statutory rate not in the beginning, but before this controversy arose?

Mr. BRISTOW. Yes, sir; that is right.

Mr. SIMS. That is what I wanted to know.

Mr. BRISTOW. The public utilities commission in our State has been embarrassed somewhat in the same manner as Judge Mills described; the railroads have publicity agents, very bright young newspaper men, and they are filling the newspapers full of readable copy for their clients and employers. The utilities commission has not any publicity agent, and there are no provisions for us to employ one. It would not be regarded as good taste, and it is not practicable; but we do print a public bulletin, a monthly publication, which every month shows just what we have done, the orders that have been issued, the nature of the case that has been decided, and comments on the general situation so far as proceedings before the Interstate Commerce Commission are concerned. We also print the hearings that have been set for the succeeding month, and I have a file of those here. We began this early in this year. If it would be of any interest to the committee, I could leave a copy of them, simply to show the methods we follow.

Mr. DOREMUS. What method of distribution have you for that bulletin?

Mr. BRISTOW. We mail it.

Mr. DOREMUS. To whom?

Mr. BRISTOW. To all public utilities, to all the newspapers, to all the State officers, including members of the legislature and the State senate, and then anybody else that wants it or asks for it.

Mr. ESCH. Do you require it to be posted up at various depots?

Mr. BRISTOW. No.

Mr. DOREMUS. Do the newspapers, as a rule, use any of the information?

Mr. BRISTOW. They use quite a good deal of it; yes; it has been very useful. The speaker of the house of representatives, I visited him not long ago in a town where we had some business, and he referred to it and was very much pleased, because he said it gave him a clear notion as to what the commission was doing, and the character of its work, such as he had not been able to get in any other way, and it has been very useful and instructive.

Mr. SIMS. Does the Interstate Commerce Commission have any corresponding publication of that kind?

Mr. BRISTOW. No, sir; not that I know of.

Mr. SIMS. Do you think it would be a good thing for the public if they did such a thing, if it was authorized or required by law to do so?

Mr. BRISTOW. I have not studied that, Judge Sims. I know it is a good thing in our State, and whether the conditions are the same here or not I do not know. It certainly would be useful to utilities.

Senator CUMMINS. Do you discuss in this paper cases pending before you and which have not been decided?

Mr. BRISTOW. If they are set for hearing. We will set cases down for hearing when I get home; we will probably set cases that will run over six weeks or two months; there will be an accumulation of cases and complaints that will require hearings, and we print those in this bulletin.

Senator TOWNSEND. Without comment?

Mr. BRISTOW. Without comment; just a statement of the facts. Here is "Orders and certificates issued in October." That gives you the orders and certificates that have been issued. Then the calendar of hearings, to illustrate: At Pratt, No. 210—that is the docket number—10 o'clock a. m., complaint of W. F. Brown and others against the Anthony & Northern Railroad Co.; train service.

Mr. SIMS. The Panama Canal Commission has a publication that gives facts, without commenting, as to what the commission is doing in the operation of the canal.

Mr. BRISTOW. Yes; that is done.

Mr. SIMS. I do not know whether it is being continued.

Mr. ESCH. Yes; it is being kept up.

Mr. SIMS. At Government expense, is it not?

Mr. ESCH. Yes.

Mr. SIMS. It has been very useful to the public.

Mr. BRISTOW. At Pawnee Rock, 11 a. m., application of the Farmers & Merchants' Telephone Co. to increase telephone rates. So we give there the case to be heard and when it is to be heard and where.

Mr. DOREMUS. Do you publish the decisions of the commission?

Mr. BRISTOW. Yes. "October 1, Case No. 2073, Order approving the proposed sale of the telephone plant to Charles Doty and J. C. Edwards, located at Webster, to James Glick and Sarah A. Bradford."

Mr. DOREMUS. Is the decision itself printed?

Mr. BRISTOW. No. We simply summarize it, the decision itself. Sometimes, when it is one of important public interest, it is summarized quite fully so that the public understands just what it is.

Mr. DOREMUS. Can the public, from the reading of that bulletin, get the reasons which actuated the commission in rendering its decisions?

Mr. BRISTOW. No; not all of them; only the important cases. The reason we do not do that is it would make it quite expensive. It would be rather voluminous, and we did not think it would be justified. We print in our biennial report—we print a biennial report every two years—all the opinions and the orders and they are made a matter of record in the annual report, but not in the bulletin.

I stated when I started out that the credit of the railroads was good, and not bad. That is demonstrated by the exhibit which Prof. Norton has prepared. I have here a statement of the returns



on the book investment of the railroads for the years 1911 to 1916. The book investment is a very unreliable and unsatisfactory valuation to figure a return on. It is not accurate; it does not represent what the roads cost. It, I think, invariably represents more. Take the Santa Fe; I think the Santa Fe had over \$100,000,000 of book value in its reorganization plan which represented no new investments. That practice of constructing a railroad is through construction companies. And then the railroad takes the property from that company. There is a little railway built in our State called the Salina Northern. It had an authorized issue of stocks and bonds of \$35,000 a mile, \$17,500 of bonds and the same amount of stock. The railroad corporation made a contract with a construction company called the Keystone Construction Co. to construct that railroad for the stocks and the bonds, or \$35,000 a mile. The Keystone Construction Co. was composed of the same individuals as the Salina Northern Railroad Co. was, but was a different corporation. The road cost about \$13,000 a mile; that is what the construction company expended in its construction. Probably now, with additional improvements that have been made on it, it may stand \$14,000 to \$15,000 a mile, but the books of the railroad company would show that it cost \$35,000 a mile to build that road. That illustrates why the book value is not reliable.

Judge Prouty, in his valuation, in the investigation that he is making, has found, and I think it is so everywhere, that frequently the retirements are not charged off, while the additions to capital are always charged in, so that the longer the road goes the book cost will increase. Under the present rulings of the Interstate Commerce Commission that is not permitted, but that prescribed system of accounts is of recent origin.

Mr. ESCH. By retirement, do you include obsolescence?

Mr. BRISTOW. Yes; obsolescence, change of grades, and things of that kind that should be treated as an operating expense or obsolescence. Sometimes the rails themselves that have been worn out and have not been charged off, while the additional rails have been charged in. Of course, that is not being done now, but it has been done in the past.

But even with that condition the railroads of the United States in 1911 had a net operating income of \$767,000,794, or 4.92 per cent on their book values. In 1912 their earnings were \$750,000,000. I will just use the round numbers, millions, because it is easier to read—or 4.69 per cent on their book values. In 1913, they earned \$829,000,000, or 5.5 per cent on their book value; in 1914, they earned \$704,000,000, or 4.16 per cent on their book value; in 1915, they earned \$727,000,000, or 4.4 per cent on their book value; in 1916, it was \$1,044,000,000, or 5.96 per cent. So that the year that this proceeding was brought and this request was made for financial help and aid, the railroads had earned a net operating income of more than a billion dollars, the highest earning in their history, and \$192,859,596 more than the average earnings for the five preceding years.

The CHAIRMAN. Mr. Bristow, would this be a good time for us to take an adjournment for luncheon?

Mr. BRISTOW. Anything that will suit your convenience, gentlemen. (Thereupon, at 1 o'clock p. m., recess was taken until 3 o'clock p. m.)

## AFTER RECESS.

## STATEMENT OF HON. JOSEPH L. BRISTOW—Resumed.

The CHAIRMAN. Senator, will you proceed?

Mr. BRISTOW. Just before the noon recess I had submitted a statement as to the net operating revenues for the railroads for six years, including the fiscal years 1911 to 1916, showing that for the year 1916, at the time that this proceeding was instituted, the net revenues of the railroads were higher than they had ever been, and that the return on the book investment, which is an inflated value, was higher than it had ever been, I believe, with one exception, that was several years ago, when the book value was very much less than it is now; that is, the percentage of return then was greater.

The CHAIRMAN. Have you an estimate of the average net income of the railroads for six years?

Mr. BRISTOW. Yes.

The CHAIRMAN. What is the average?

Mr. BRISTOW. The average for the six years is \$851,742,994.

The CHAIRMAN. That includes—

Mr. BRISTOW. That includes 1916, the high year.

The CHAIRMAN. And also 1914, the low year?

Mr. BRISTOW. Yes; 1914, the low year. Now, I should like that to be made a part of my statement.

The CHAIRMAN. Yes; you may hand it to the reporter.

(The statement referred to is here printed in full, as follows:)

*Railway operating income book investment in road and equipment, with rate of return upon same for 6 years, 1911 to 1916, inclusive, and average for 5 and 6 years, all railways in the United States.*

Year ended June 30—	Book investment in road equip- ment.	Railway operating income.	Return upon book invest- ment.
			<i>Per cent.</i>
1911.....	\$15,612,378,845	\$767,794,358	4.92
1912.....	16,004,744,966	750,913,760	4.69
1913.....	16,424,359,514	829,863,248	5.05
1914.....	16,936,697,840	704,685,089	4.16
1915.....	17,267,119,423	727,546,101	4.21
1916.....	17,525,576,908	1,044,602,590	5.96
Average for six years.....	16,628,479,582	807,567,524	4.85
Average for five years (1912 to 1916).....	16,831,699,330	815,522,158	4.86

For the year ended June 30, 1916, the railway operating income was..... \$1,044,602,590

Applying the average rate of return for the six-year period of 4.86 per cent to the book investment in 1916 of \$17,525,576,908, operating income would be required of..... 851,742,994

Leaving a surplus for 1916 of..... 192,859,590

These figures are taken from the published reports of the Interstate Commerce Commission, and for the years prior to 1911 the returns are not sufficiently complete to be used with safety.

During the noon hour I examined an exhibit that was submitted in the advance rate case. I have here an exhibit which was submitted before the Interstate Commerce Commission at the hearing of the western advance rate case some months ago when the commission refused the 15 per cent advance to the western roads. This exhibit

contains the statistics relating to 20 western roads, constituting 77.31 per cent of the mileage operated and 87.80 per cent of the business handled—that is, of the western district. And this exhibit shows the earnings for the fiscal year ending June 30, 1917, that is the last fiscal year, and it shows an increased earning for the last fiscal year over 1916, the fiscal year ending June 30, 1916, to which I have referred.

(The exhibit referred to is here printed in full, as follows:)

#### FIFTEEN PER CENT ADVANCE RATE CASE.

[Ex parte 57.]

In this exhibit figures will be given for two groups of railroads operating entirely in the western district. The first group comprises 12 representative roads or systems. These 12 roads or systems are contained in the list of 20 roads or systems shown on page 13 of L. E. Wettling Exhibit 1. The second group comprises 20 roads or systems, and are the same 20 roads or systems shown on page 13 of L. E. Wettling Exhibit 1.

#### GROUP NO. 1.

Atchison, Topeka & Santa Fe System.  
Chicago & North Western.  
Chicago, St. Paul, Minneapolis & Omaha.  
Chicago, Burlington & Quincy.  
Chicago, Milwaukee & St. Paul.  
Chicago, Rock Island & Pacific Lines.  
Great Northern.  
Minneapolis, St. Paul & Sault Ste. Marie.  
Missouri Pacific System.  
Northern Pacific.  
Union Pacific System.  
Southern Pacific System.

The 12 roads named above operated 92,943.96 miles in 1915, which was 65.89 per cent of the total operated mileage in the western district for that year. In the same year those roads handled 75.80 per cent of the total revenue tons 1 mile handled in the western district by class 1 and 2 roads. Figures for 1915 are used, as that is the last year for which figures for the whole district are available.

#### GROUP NO. 2.

Atchison, Topeka & Santa Fe System.  
Chicago & Alton.  
Chicago & North Western.  
Chicago, St. Paul, Minneapolis & Omaha.  
Chicago, Burlington & Quincy.  
Quincy, Omaha & Kansas City.  
Chicago Great Western.  
Chicago, Milwaukee & St. Paul.  
Chicago, Rock Island & Pacific Lines.  
Great Northern.  
Kansas City Southern.  
Minneapolis & St. Louis.  
Minneapolis, St. Paul & Sault Ste. Marie.  
Missouri, Kansas & Texas Lines.  
Missouri Pacific, St. Louis, Iron Mountain & Southern.  
Northern Pacific.  
St. Louis & San Francisco Lines.  
St. Louis Southwestern System.  
Southern Pacific System.  
Union Pacific System.

The 20 roads named above operated 109,044.61 miles in 1915, which was 77.31 per cent of the total operated mileage in the western district for that year. In the same year these roads handled 87.80 per cent of the total revenue tons 1 mile handled in the western district by class 1 and 2 roads. Figures for 1915 are used, as that is the last year for which figures for the whole district are available.



## FIFTEEN PER CENT ADVANCE RATE CASE.

(Ex parte 57.)

*Aggregate book cost of road and equipment, and per cent of return on same, net operating income, operating revenues, and operating expenses, and also operating revenues, operating expenses, and net operating income per mile of line.*

[20 roads or systems, western district (see p. 14).]

Years.	Book cost of road and equipment (net).	Net operating income.	Per cent on book cost of road and equipment.	Average miles operated.	Operating revenues.	Operating expenses.	Ratio to revenues.	Operating revenues per mile of line.	Operating expenses per mile of line.	Net operating income per mile of line.
1901.....	\$2,912,438,576	\$155,261,611.93	5.33	65,414.78	\$429,197,980.41	\$258,919,337.87	60.33	\$6,561.18	\$3,958.11	\$2,373.49
1902.....	3,094,504,755	177,621,287.31	5.74	68,272.60	485,150,538.47	289,140,419.30	59.60	7,106.08	4,235.01	2,601.65
1903.....	3,238,754,284	191,040,672.06	5.90	76,363.22	540,164,965.44	328,352,219.60	60.83	7,362.89	4,478.37	2,604.72
1904.....	3,423,947,436	188,972,321.48	5.52	76,449.07	566,013,834.23	355,124,882.27	62.79	7,403.80	4,649.17	2,471.87
1905.....	3,492,580,905	199,937,499.95	5.72	78,520.52	591,607,412.62	368,740,283.31	62.33	7,584.43	4,696.10	2,546.37
1906.....	3,589,468,142	200,946,226.39	6.41	79,595.94	667,072,166.92	411,711,473.47	61.72	8,381.95	5,175.12	2,896.37
1907.....	3,714,377,066	248,992,071.61	6.70	82,288.35	755,092,194.73	477,756,871.38	63.27	9,176.18	5,835.88	3,025.85
1908.....	3,902,044,866	209,125,393.10	5.35	84,282.45	716,707,747.00	473,646,333.41	66.09	8,503.64	5,619.76	2,481.24
Total, 1901 to 1908, inclusive.....	27,368,116,020	1,600,947,083.83	5.85	608,146.93	4,751,007,186.85	2,963,902,400.59	62.40	7,812.26	1,873.66	2,632.50
1909.....	4,004,180,074	235,702,296.00	5.89	85,321.60	711,892,322.90	467,348,058.15	65.80	8,694.19	5,477.19	2,762.52
1910.....	5,437,212,943	289,787,770.22	5.33	99,252.87	984,406,627.84	643,808,973.33	65.41	9,920.17	6,488.77	2,920.28
1911.....	5,664,464,177	277,414,081.02	4.90	102,391.99	985,795,243.28	659,321,657.49	66.88	9,635.85	6,441.67	2,711.64
1912.....	5,839,140,389	206,422,643.30	4.57	103,694.27	981,137,970.63	660,342,582.36	67.32	9,470.05	6,375.63	2,574.41
1913.....	5,919,057,014	315,045,993.88	5.32	105,886.14	1,038,912,628.61	726,231,198.50	69.69	10,578.24	6,838.61	2,975.33
1914.....	6,107,453,757	281,713,692.26	4.61	107,391.78	1,066,038,297.08	721,339,975.72	67.68	9,926.40	6,720.64	2,623.96
1915.....	6,292,002,961	281,365,960.48	4.59	109,014.61	1,038,564,933.47	691,822,533.11	66.61	9,524.22	6,344.40	2,607.79
1916.....	6,297,981,797	365,531,145.70	5.80	109,824.88	1,188,598,827.54	755,101,196.81	63.55	10,822.67	6,878.26	3,328.31
Total, 1909 to 1916, inclusive.....	45,462,493,112	2,316,282,575.86	5.09	822,581.14	8,055,256,871.38	5,326,109,445.50	65.87	9,829.13	6,474.87	2,815.87
Total, 1901 to 1916, inclusive.....	72,830,609,142	3,917,230,659.69	5.38	1,430,728.07	12,836,264,038.23	8,290,011,846.09	64.58	8,971.84	5,794.26	2,737.9
Year 1916 / Southern Pacific system exclude D.....	5,395,034,475	318,718,826.83	5.91	98,868.91	1,035,904,590.35	657,923,265.63	63.51	10,477.56	6,654.50	3,223.65
1917.....	6,450,449,693	412,816,739.00	6.40	109,976.49	1,353,757,381.00	864,899,971.00	63.89	12,309.50	7,864.13	3,750.70

Note.—Figures for net cost of road and equipment and average miles operated, are taken from Poor's Manual of Railroads, except as noted, in order to get consolidated figures for systems. Such figures are in substantial accord with those reported to the Interstate Commerce Commission. Figures for the Southern Pacific system are not included for years 1901 to 1916, inclusive, but are included for years 1917 to 1916, inclusive, and were taken from Mr. Kruttschnitt's exhibit, filed in this case.

## FIFTEEN PER CENT ADVANCE RATE CASE.

[Ex parte 57.]

Operating revenues, operating expenses, and net operating income, 1901 to 1916, inclusive.

[20 roads or systems, western district (see p. 1).]

Years.	Operating revenues.	Operating expenses.	Other items debit.	Net operating revenues.	Taxes.	Operating income.	Rentals, Net lease of road debit.	Net operating income.
1901.....	\$429,197,980.44	\$258,919,337.87	.....	\$170,278,642.57	\$13,497,612.54	\$156,781,030.03	\$1,519,418.10	\$155,261,611.93
1902.....	485,150,558.47	289,140,419.30	.....	196,010,139.17	14,499,261.28	181,510,877.89	3,880,300.58	177,629,577.31
1903.....	540,164,905.44	328,562,219.60	.....	211,602,685.84	16,194,448.43	195,408,237.41	4,317,655.35	191,090,582.06
1904.....	566,013,834.23	358,424,882.27	.....	210,588,951.96	16,957,355.90	193,631,596.06	4,659,274.58	188,972,321.48
1905.....	591,607,412.62	368,740,283.31	.....	222,867,129.31	18,296,878.21	204,640,251.10	4,702,551.15	199,937,499.95
1906.....	667,072,466.92	411,711,473.47	.....	255,360,993.45	20,691,488.84	234,669,504.61	4,723,578.22	229,946,926.39
1907.....	753,092,191.73	477,556,851.36	.....	277,535,340.37	23,453,330.16	253,882,010.21	4,880,498.60	248,992,511.61
1908.....	716,707,747.00	473,646,953.41	\$3,945,704.30	239,115,109.29	25,618,082.45	213,497,026.84	4,371,633.74	209,125,393.10
Total, 1901 to 1908, inclusive.....	4,751,007,186.85	2,963,902,400.59	3,945,704.30	1,783,159,081.96	149,138,457.81	1,634,020,624.15	33,073,540.32	1,600,947,083.83
1909.....	741,802,322.90	467,348,058.15	6,751,972.61	267,702,292.14	27,494,009.46	240,208,282.68	4,303,983.68	235,702,299.00
1910.....	984,406,627.84	643,898,973.33	10,474,920.83	330,032,733.68	38,385,899.78	291,646,833.90	1,859,063.68	289,787,770.22
1911.....	985,795,243.28	659,321,657.49	8,200,879.87	318,267,705.92	38,801,001.13	279,466,704.79	2,048,023.77	277,418,681.02
1912.....	981,137,970.63	660,542,582.36	7,068,272.50	313,527,115.77	43,981,383.65	269,545,732.12	2,823,097.82	266,722,634.30
1913.....	1,098,912,628.64	726,231,468.50	7,591,765.57	365,089,394.57	47,152,717.79	317,936,676.78	2,890,680.90	315,046,095.88
1914.....	1,066,038,297.08	721,539,975.72	5,429,783.70	339,068,537.66	54,238,042.84	284,830,494.82	3,126,802.36	281,703,692.46
1915.....	1,038,564,053.47	691,822,533.14	6,846,402.67	339,896,017.66	53,578,594.21	286,317,423.45	1,671,462.97	284,645,960.48
1916.....	1,188,598,827.54	755,404,196.81	6,337,582.84	426,877,047.89	59,693,404.63	367,183,643.26	1,632,197.56	365,551,445.70
Total, 1909 to 1916, inclusive.....	8,085,256,871.38	5,326,109,445.50	58,710,580.59	2,700,436,845.29	363,395,053.49	2,336,841,791.80	20,558,215.94	2,316,283,575.86
Total, 1901 to 1916, inclusive.....	12,836,264,658.23	8,290,011,846.09	62,656,284.89	4,483,595,927.25	512,733,511.30	3,970,862,415.95	53,631,756.26	3,917,230,659.69
1917.....	1,353,757,330.00	864,869,974.00	16,337,583.00	482,549,773.00	68,100,545.00	414,449,228.00	1,632,198.00	412,816,730.00

1 These figures are not available for 1917, therefore the 1916 amounts have been used.

Authority: Wetting Exhibit, volume I, except that figures given therein for the Sunset Central Lines have been deducted and that these has been added, for the years 1910 to 1916, inclusive, the figures for the Southern Pacific system, introduced by them in this case.

Of these roads the net operating income for 1916 was \$365,000,000 plus; for 1917 it was \$412,000,000 plus, showing that these roads earned more in 1917 than in 1916. The Interstate Commerce Commission now will have the statistics compiled in the future on the calendar year instead of the fiscal year, so that what the calendar year will show of course we are not able to tell, because the calendar year is not out yet, but this shows that for the fiscal year ending June 30 last the earnings of western roads was better than it ever had been, even better than 1916.

Senator CUMMINS. In your use of the term "net earnings"——

Mr. BRISTOW. Net operating income.

Senator CUMMINS. Do you use it in the same sense the Interstate Commerce Commission uses the term "net operating income"?

Mr. BRISTOW. It is the same thing, yes; net operating income, because the figures are taken from their reports. The roads report practically the same to the State commissions as they do to the Interstate Commerce Commission, on the same blanks, so that this alleged excessive expense and burden which some people say the railroads are put to to make reports to State commissions is fiction. They simply use the same blanks and furnish the State commissions the same information relating to their States and jurisdictions, and it is simply a very small job of clerical work to make out such reports for the States.

The per cent of return on the book value in 1916 of these roads was 5.80 per cent; in 1917 it was 6.40 per cent.

Senator CUMMINS. That was for the fiscal year ending June 30?

Mr. BRISTOW. June 30 last. That was for these western roads. I thought that would be interesting.

The CHAIRMAN. Are you putting that in the record?

Mr. BRISTOW. I will put that in the record. There is a lot of stuff here that would be immaterial, but I will get this in shape so that I can submit it and let it go in the record.

Now, some gentleman asked, I think Senator Cummins, if we had had a compilation of the expenses of handling State and interstate passengers upon the weight of the equipment hauled per passenger, State and interstate. We have not had that worked out, although we expect to in the trial of the case, the case that is before the courts, but I think it is conceded by all who are familiar with the weight of railroad equipment that it will make a very much worse showing against the interstate traffic, so far as expense goes, than the car-foot mile showing, because the Pullman cars are much heavier, and it would not tend in any way to show that the expense of handling interstate passengers was less.

I should like to have this data in regard to the car-foot space used by the Pullman and the day coach passengers made a part of the record also.

The CHAIRMAN. Very well; that may be included.

(The exhibit referred to is here printed in full, as follows:)

The following compilation shows the difference in service:



*Used by interstate and intrastate passengers.*

Road.	Percentage of State and interstate passengers handled in Pullman cars.			Linear car-foot space each passenger in Pullman car.
	State.	Interstate.	Day coach.	
	<i>Per cent.</i>	<i>Per cent.</i>	<i>Per cent.</i>	
C., R. I. & P. ....	4.42	95.56	2.56	10.45
A., T. & S. F. ....	3.11	96.89	3.12	7.03
M., K. & T. ....	.36	99.64	4.16	10.44

The following compilation shows the difference in service:

*Used by interstate and intrastate passengers.*

Road.	Passengers handled in Pullman cars.		Linear car-foot space each passenger in—		Linear car-foot space each passenger.	
	State.	Interstate.	Pullman car.	Day coach.	State.	Interstate.
	<i>Per cent.</i>	<i>Per cent.</i>				
C., R. I. & P. ....	4.42	95.56	10.45	2.56	2.88	5.05
A., T. & S. F. ....	3.11	96.89	7.03	3.12	3.22	4.83
M., K. & T. ....	.36	99.64	10.44	4.14	4.16	6.06
St. L. & S. F. ....	3.24	96.76	(1)	(1)		
Mo. P. & C. ....	3.97	96.03	(1)	(1)		
Union Pacific ....	7.43	92.57	(1)	(1)	2.55	4.01

Road.	Linear car-foot space each passenger, both State and interstate, in train, including all cars.	
	State.	Interstate.
C., R. I. & P. ....	2.88	5.05
A., T. & S. F. ....	3.22	4.83
M., K. & T. ....	4.16	6.06
Union Pacific ....	2.55	4.01

Mr. BRISTOW. I should like to also to have included in the record certain other figures to which I have referred more or less in my testimony.

The CHAIRMAN. They may be included at each point.

Mr. BRISTOW. Mr. Esch asked me this morning the question, which is the perplexing one in regard to transportation under our existing system, and that is how are we to do justice to all the public and the carriers under the system that now prevails, and my answer is that it can not be done, and the only way to do it is to change the system.

I will illustrate that by an example which makes it clear, and it could be reproduced in every State in the Union. The Missouri Pacific runs from Kansas City to Pueblo, Colo. It goes through Salina, Kans., which is the largest town that it touches between Kansas City and Pueblo. The Union Pacific runs from Kansas City to Denver; it goes through Salina, Kans., which, while not the largest in population of any of the towns between Kansas City and Denver, furnishes the Union Pacific more business than any town between

Kansas City and Denver. Both of these roads have trains running through Salina to Kansas City, the distance over the Missouri Pacific is 226 miles, the distance over the Union Pacific is 186 miles.

Mr. SIMS. From Salina?

Mr. BRISTOW. From Salina to Kansas City, a difference of approximately 40 miles; that is, the Union Pacific is that much shorter than the Missouri Pacific. The result is that those going from Kansas City to Salina take the Union Pacific. A very small per cent of the traffic between Salina and Kansas City, the passenger traffic, uses the Missouri Pacific Railroad, although it has a very good service. Our passenger rate cases showed that the Missouri Pacific in Kansas, on its passenger business, was not earning an adequate return. It showed that the Union Pacific was. If we undertook to give the Missouri Pacific an adequate return by increasing the rates on the Missouri Pacific and not increasing them on the Union Pacific, the amount of business which the Missouri Pacific would lose at competing points would decrease its earnings. It competes with the Rock Island, the Santa Fe, and the Union Pacific, all of which are earning adequate returns on their intrastate passenger business, amply adequate. The Missouri Pacific handles passengers from Salina to Kansas City at less than 2 cents a mile; it can charge 2 cents if it wanted to, but it will not because it meets the short-line mileage of the Union Pacific. It could make the rate from Salina to Kansas City—and I speak now of the Kansas rate—\$4.52, but the Union Pacific charges \$3.72 and the Missouri Pacific must meet it.

The Missouri Pacific, if an increased rate will increase its earnings, ought to charge 2 cents a mile from Salina, but it does not; it charges the Union Pacific rate, \$3.72. When the Missouri Pacific representatives complained to us, we pointed to these rates from the different competing towns where the Rock Island crosses, the Santa Fe crosses, all important towns, where it never charges 2 cents a mile. If we authorized it to charge 2½ cents a mile, it would not only lose all of the business at competing points but it would lose business at places that are not now competing points, because people would drive over to the nearest Santa Fe, Rock Island, or Union Pacific station and save the money. So there is not any way you can make a rate that will be of any use to the Missouri Pacific in Kansas except to increase all of the passenger rates. That is not justified, because the Santa Fe, the Rock Island, and the Union Pacific are earning enough. They are exceedingly prosperous. Some of the roads in Kansas earn 9 and 10 per cent on the property used in intrastate traffic, according to our figures, and I think they are correct.

We did not give the Missouri Pacific any increased rates, although our figures show they are not earning an adequate return. The commission was not altogether unanimous on that, and a dissenting opinion was filed, but the majority of the commission felt it was not any use, and that the investors in Missouri Pacific property must accept the condition, and that we were not justified in assessing upon the patrons of these other roads a higher rate than they ought to be required to pay in order that this road might make a profit.

Mr. Chambers, who is the accountant of the commission, has just handed me this note, calling my attention to the fact that the roads that are earning an adequate return, according to our investigation, handled 85 per cent of the passenger business of Kansas. The Missouri Pacific which has not an adequate return, handles 11 per

cent of the business. Now, you can not increase beyond a just rate 85 per cent of the business of the people in order that this road, unfortunately located, shall earn a return. In my judgment it would not be equitable or just, and it ought not to be done.

Mr. SIMS. It would not be in the public interest?

Mr. BRISTOW. It would not be in the public interest: no. Now, gentlemen, representatives of the carriers, suggested to me the other day here that the people living on the Missouri Pacific were entitled to a good service: that they were human beings exercising the functions of American citizens, and were entitled to a good service, and that the road ought to have the money that would justify it in furnishing good service, and that is true. But the only way to do that is to change the method of the ownership of the roads.

This illustrates just one condition in Kansas: there are others just as bad or worse, and it is the same all over the United States. My judgment is that the railroads of the United States ought to have a common ownership. It is easy to take care of a branch line. We have had a good many branch line cases in Kansas, where they sought to increase the returns on the branch lines by increased freight rates and charges. You take the business of a branch line and consider it alone in and of itself, and there are very few of them that pay, but when you consider that that branch line brings to the main line the traffic, and that that traffic is profitable at the rates to the main line, and when you take the systems as a whole, like the Union Pacific and the Santa Fe, the business is profitable. We hold that the people living on the branch lines have the right to the same rate, as an economic proposition, and an adequate service for their needs even though that particular section of the road, in and of itself, may not be profitable. That the branch and its relation to the main line makes it possible for the main line to handle the great volume of commerce which is exceedingly profitable, and I think that the railroads of the United States have got to be organized on that kind of a basis. You can not cure the evils while there is a divergent ownership. You can not assess the stockholders of the Union Pacific in order that the stockholders of the Missouri Pacific shall have a profit. That would be like taking profits out of the business of one merchant and giving them to another, because the other merchant was not successful. At the same time these carriers are engaged in a public service and not in a private enterprise, and the public has rights as well as the carriers, and, in the public interest, it seems to me that a scheme ought to be devised whereby the whole system sustains itself.

Of course, that points toward Government ownership. But I am not in favor of Government ownership as it is commonly understood. But, before I go into that feature of it, I want to discuss another situation, which I think demands a change in the present system of transportation.

The congestion, of which there is so much complaint at this time, is largely at the terminals. Last year, when the congestion for us was more serious than it is now, our cars were tied up in the East. I know of an individual case where a car was tied up in the terminals at Buffalo for 60 days, could not get through, and what was true of Buffalo was true of other terminals. There was great congestion



at New York. As you gentlemen know the cars stood back on the sidetracks there, tied up for a hundred or two hundred miles.

What, in my judgment, is a false system of rates, has greatly exaggerated and aggravated this terminal congestion. I think that the carriers are speaking with accuracy, or a great deal of accuracy at least, when they say it will take a very large amount of money to enlarge the terminals so they can handle the business of the country. It is estimated at, I think, from one to two billions of dollars. But if you leave, in my judgment, gentlemen, the present system existing and spend a billion in enlarging the terminals, in 15 or 20 years it will be just as bad as it is now. The congestion of the traffic at these few points is so enormous that the land, the property adjacent to these terminals, is of such vast and stupendous value that in time it will get beyond the possibility of any private concern to get money enough to make the terminals big enough.

There is a system of rates in the United States that congests the business in these terminals. The rates have been made by private concerns that have been operating these roads for profit as a business institution. They have sought to develop business, just as any other man in business for profit would seek to develop it. They want long instead of short hauls, because they get more money for long than they do for short hauls. And so in our State, and I take it for granted that it is true throughout the Mississippi Valley and in the West, the whole system of rates has been for the purpose of converging business in certain centers.

You take live stock. Kansas is 400 miles long and 200 miles wide. Kansas City is the principal live-stock market. Every steer practically that is grown in western Kansas in the grass region of our State makes one or two or three trips to Kansas City and back in the course of his life. When he is ready for the feeder, and the steer is grown on the grass out there, they will ship him in to Kansas City, and there are feeders there that are watching for cattle, they go to Kansas City to buy feeders, and ship them out to the corn sections of the State, and these cattle that are suitable for feeding will go out to different places from 50 to 250 miles from Kansas City—he may have come in there 300 miles or 400 miles possibly, 100 miles, or whatever it may be. After he is fat he is again shipped back to Kansas City for butchering. He is butchered and the people in the grazing and corn regions who consume meats buy the dressed product, which is shipped back in carloads and less than carload lots to the consumers. That system has created a profitable business for the carriers. It has been to their interest to converge this business at Kansas City, or Omaha, or Chicago, because it is developing a long-haul business in and out that is profitable to them, and they want business because they are in this business for profit.

That illustrates the system that prevails in regard to merchandise. It has been almost impossible to develop distributing centers off the Missouri River in our State. For many years the rate on sugar from San Francisco to Kansas City was 55 cents per hundred pounds. I do not know what it is now; I have not looked it up for some time. Salina is 186 miles west of Kansas City on the Union Pacific Railroad. The rate from Kansas City to Salina is 29 cents per hundred pounds. The rate from San Francisco to Salina was 55 cents, the San Fran-

cisco-Kansas City rate plus 29 cents, the rate from Kansas City back to Salina, or 55 and 29, which is \$4.

Some gentlemen started a wholesale establishment at Salina, the Lee Mercantile Co., which has since grown into quite an establishment, and, of course, they were up against this transportation question. Gradually the Interstate Commerce Commission was given authority to deal with it, and the president of that company told me it cost his company \$5,000 in the litigations he had before the Interstate Commerce Commission and the courts, in order to get that rate adjusted so that he might have the Kansas City rate. He never has gotten a mileage proportion of the San Francisco to Kansas City rate.

So I say that this system has prevailed. Take the rate on wheat. Galveston is the nearest port to the wheat fields of Kansas. We export from Kansas on the average probably 70,000,000 bushels of wheat a year. Some years we have exported 150,000,000 bushels; other years we have exported very much less. But we will average at least for export 70,000,000 bushels a year. It grows very largely in central Kansas. Wichita, Salina, Hutchinson, those are the principal towns in that region.

The rate on wheat from Kansas City some time ago—the figures have been changed somewhat now because an effort was made to apply the long and short haul clause, which has not been entirely successful, but which has modified this discrimination so it is not so bad as it used to be. I am using these figures because I remember them, and I do not remember the exact figure now.

Before these cases were brought before the Interstate Commerce Commission that resulted in changing the rate on wheat from Kansas City, it was 16 cents a hundred from Kansas City to Galveston.

Senator CUMMINS. Sixteen cents a hundred?

Mr. BRISTOW. Sixteen cents a hundred from Kansas City to Galveston. The rate from Wichita to Kansas City was 12 cents. Wichita is on the line of the Rock Island and the Santa Fe, between Kansas City and Denver, 226 miles from Kansas City and some 725 miles, I believe, from Galveston. On the Santa Fe or Rock Island any shipment from Kansas City would go through Wichita to Galveston, and while the rate from Kansas City to Galveston was 16 cents, and from Wichita to Kansas City 12 cents, the rate from Wichita to Galveston was 16 plus 12, or 28 cents.

Senator CUMMINS. From Wichita to Galveston 16 plus 12 cents?

Mr. BRISTOW. Yes; 28 cents.

Mr. ESCH. That was the local rate?

Mr. BRISTOW. That was the local rate to Kansas City and the rate to Galveston. Of course it was shipped south and never went to Kansas City as a rule. But the tendency is to converge the business at centers like Kansas City. There was one gentleman at Great Bend, Barton County, which county produces a large amount of wheat, probably will average 4,000,000 bushels a year. He was not on the direct line of the Santa Fe, between Kansas City and Galveston, but he was about 40 miles west of it at Great Bend. That is west of Newton. If he shipped to Galveston, he would ship from Great Bend to Newton and then south to Galveston. His rate from Great Bend to Newton was 8 cents; from Great Bend to Kansas City was 16 cents; from Great Bend to Galveston it was 32 cents, the

rate to Kansas City plus the rate from Kansas City to Galveston. He tried to get the carriers, the Santa Fe, to let him pay the local rate to Newton, which was 8 cents, and the Kansas City rate from Newton, which is 200 miles nearer to Galveston than Kansas City was. But they would not do it. They charged him the 32 cents. He would have saved 8 cents per hundred pounds if he could have got this rate. I remember this incident. He told me about it. He had 50 cars of wheat he wanted to send to Galveston. He tried to get this rate; it meant a great deal of money to him. He could not do it. So he billed the wheat to Kansas City to his brother, the Santa Fe carried it to Kansas City, his brother rebilled it to the party at Galveston, and the Santa Fe carried it to Galveston—that is, it carried it from Newton to Kansas City, 200 miles, and back again.

Mr. SIMS. On the same road?

Mr. BRISTOW. On the same road, and Mr. Moses made them do that, because he said he was paying them for it and he wanted them to earn the money. That simply illustrates the nature of the rate-making system that has prevailed throughout the central part of the United States.

Senator CUMMINS. At the same time what was the rate to New York or to the Atlantic seaboard?

Mr. BRISTOW. That is another interesting feature. The rate to New York, plus the water rate to Liverpool, and the rate to Galveston, plus the water rate to Liverpool, is the same. And that parity is maintained by the eastern carriers because they want to handle a lot of this western business. So that a large amount of our grain and grain products that is shipped moves through these congested eastern terminals to New York, 1,500 miles of rail haul, when 700, 750, or 800 miles south would reach tidewater, and the water transportation from Galveston would be very much cheaper, of course.

Mr. SIMS. Would it be the same as the water transportation from New York?

Mr. BRISTOW. It is a little farther, but it may be the same; I do not know. The combination is the same.

I have talked with railroad men about this, operating officers, and I want to say this, and I do not want to disparage any railroad man. I have found them pretty high-grade gentlemen to do business with, but the operating men realize the enormity of this system because their interest is to move the traffic, and they would like to move it in the way it can be moved the most expeditiously. The owners, who are interested in the profits and the dividends, want the business to move on the lines that furnish them the greatest income, that make them the highest profit, whether it is an economical way to move it or not, and the result is now that you can not get a lower rate from the wheat fields of Kansas south for export when you combine the rates to the ultimate market than you can by way of New York, and the rails between Chicago and New York are congested frequently with traffic moving from the central part of the United States to these eastern seaboard that never ought to go there. It ought to go south. But the contest for business between the eastern lines and the southern lines is such that the roads running south will not try and enforce a lower rate, because they say they can not afford to do it. Their traffic arrangements are such with the



eastern roads as to make it against the interest of these roads that reach the Gulf to destroy this disparity.

The evil of this is due to the private ownership of transportation companies, and I am not saying this in any spirit of criticism, because a man has the right to earn a return on his money, and if he is running a privately owned business he has the right to make it as profitable as he justly can. But the traffic of the central part of the United States can not move in a normal and natural way where it can be moved at the least cost because of this wrong system. For 50 years the producers of the central part of the United States have been paying tribute to an unfair competitive condition which is not justified, and that can not be justified.

You can not correct that as long as there is a different ownership in these roads. You can not correct that competitive condition; you can not correct the long and short haul clause as long as there is private ownership. You gentlemen remember well when we passed the present long and short haul clause, that has been discussed here so thoroughly by Mr. Shaughnessy, we thought we practically had it cured, but we did not. It has been modified very slightly in some minor respects, as a result of that law but in the main is going on the same as it always did so far as the great bulk of the traffic is concerned.

The CHAIRMAN. Is that true in the central region as well as in the intermountain region in the West?

Mr. BRISTOW. Oh, yes; our commission had a case on the movement of certain traffic from Galveston and New Orleans to Kansas towns. We undertook to get the Kansas City rates; we tried it out before the Interstate Commerce Commission; it was a year and a half before we got a decision—I suppose there were some difficulties in the way—and finally they fixed the Kansas City rate where the mileage was the same from New Orleans to the Kansas point, and then applied a distance tariff on all points between that point and Kansas City, making the rate more at Wichita and Topeka and Emporia, and other points than to Kansas City. Arkansas City was about the same distance and they gave it the Kansas City rate, and then to every point north of that on this through line they applied a distance tariff rate, making it more on up until you got to Emporia and Topeka, and that is up close to Kansas City, where the rate was considerably more than the Kansas City rate, more than it would be if the traffic moved on to Kansas City.

So that I say the amendment has modified the practice only slightly. This wheat rate that I have referred to, that was so outrageous, has been corrected, so I think the rate now, instead of 28 cents from Wichita is 24 cents. Yet it is still more than the Kansas City rate.

Again, the railroads in seeking business have undertaken to destroy competitors. They have undertaken by their system of rate making and their service to get the better of their competing carriers. The result has been that they have driven the boats off the Mississippi River and all other waterways where they compete with railroads in the interior of the United States, and that was done by unfair discrimination.

I have used the figures I now give you once before, and you will pardon me for using them again. I use them because they illustrate

the idea, and I remember them distinctly. I made an inquiry with regard to the Panama Canal, which I will refer to later. I discovered the rate on baled cotton from Memphis to New Orleans—I may not get these accurate, absolutely, but they are approximately accurate—was, I think, 17 cents a hundred pounds. New Orleans and Memphis are on the Mississippi River; Memphis is about 400 miles, I think, or 450 miles, or something like that, from New Orleans. There was water competition. There were boat lines competing for that business. Meridian, Miss., is about 190 miles, as I remember, from New Orleans, but off the river. Baled cotton from Meridian at that time was 36 cents a hundred pounds.

Mr. ESCH. To New Orleans?

Mr. BRISTOW. To New Orleans, yes; a distance of about 200 miles, a little less than 200 miles, as I remember it.

The CHAIRMAN. As against 17 cents?

Mr. BRISTOW. As against 17 cents for the more than 400-mile haul. Now, the purpose of that was to take the business from the water carriers, and the argument is, "there is some profit in it—there being some profit in it we want it." The other rate, 36 cents for the 200-mile haul, that they say is a fair rate for the service rendered and Meridian has not any complaint because the carriers claim they are not overcharging her. That argument never had any weight with me, but it is the argument which the railroad men think is valid and maintain.

The result has been that water transportation has been destroyed and we have reached a period in the history of the country where the railroads can not handle the traffic. In the last two years there have been enormous losses to the commerce of this country, because the railroads could not expeditiously and efficiently handle the commerce of the country. That is due to the system of rate making that is in vogue.

Now, gentlemen, I think if you can move traffic from Memphis, Tenn., to New Orleans cheaper by water than by rail, it ought to go by water unless time is a factor so that it makes it desirable to get it there quicker than water will take it. The railroads ought to handle that which they can handle the best at a reasonable price, and if the increased cost of moving by rail justifies paying a higher rate, because of the time and the expeditiousness of the service, why, they will get that business which they ought to handle and which it will be profitable for them to handle. But to congest their terminals and congest their tracks with a business that is only nominally profitable, and to the detriment of the country, to the destruction of transportation agencies, which are just as important to the people of the United States as the railroads are, is an erroneous, unjust, and bad public policy and ought not be permitted. My experience has led me to believe that you can not correct this erroneous system as long as the railroads are operated as privately owned business concerns that are in the market seeking traffic at a profit. I do not think it is a practical thing to regulate them and correct these abuses. At least we have been trying it for 25 to 30 years and have not got along very far with it.

The CHAIRMAN. A rigid long and short haul clause provided for by legislation—would it do away with all the evils you complain of?

Mr. BRISTOW. No; not all, because Meridian, Miss., is not an intermediate point between New Orleans and Memphis, Tenn. But a rigid long and short haul would help correct this evil.

While I am for a rigid long and short haul clause, I realize there will be some trouble, some loss, some disarrangement of the established business that would hurt some people, but so far as the public is concerned, you will never get the abuses corrected until you do make it rigid, in my opinion, because the carriers will never consent to it until they have to. The Interstate Commerce Commission yields to the persistence and the determined efforts of the carrier, where the commissioners decided in our favor in so far as they fixed at Arkansas City, Kans., the Kansas City rate from New Orleans, but that case has been reopened by the Interstate Commerce Commission at the request of the carriers, because the carriers were not satisfied with the ruling.

Now, that was not rigid; that was simply a mild application of the principle of the long and short haul clause, but when we get that decision, after two years' effort, within three months it is reopened for another trial, so the Kansas commission has to keep attorneys here all the time trying the cases in order to get what manifestly under the law it is entitled to without any trial.

I do not criticize the Interstate Commerce Commission; I think I can understand the pressure that is brought by very able counsel that have the carriers' side to look after. They have been trained along this line, and think and believe it, but their views are false, because they are directed from a personal interest. We have got to fight that out again. I do not know whether we shall lose it or not, but we are in controversy all the time. And there are those of us out there who have been fighting this all our lives. I know I have been in it for 25 years, and that covers most of my active life. We are getting tired of the contest, and we think it ought to be settled. But in this I do not speak for the National Association of Railway Commissions. I am speaking solely as the Kansas commissioner, for the interests of the States are not uniform in this, and men are controlled more or less by the interests of their localities.

Take the Panama Canal. The Panama Canal could have been a powerful competitor to the transcontinental railroads, and the Panama Railroad was, at least potentially so, anyway. You gentlemen are familiar with the efforts that were made by the transcontinental railways to destroy competition by way of Panama. It has been discussed in Congress time and again, the transcontinental railway pool which was organized away back in the eighties, which contributed at one time approximately \$1,000,000 per annum to the revenues of the old Panama Railroad Co. when it was owned by the French, in order to control the rates by way of Panama, and that controversy has been going on ever since. It resulted in these very low rates by rail for heavy commodities from the Atlantic and Pacific coasts. I do not know, but I think canned goods from Baltimore is moved for probably 56 cents per hundred—somewhere along there—from Baltimore to San Francisco. There may be some profit in it; I do not know; the railroads want that traffic. Mr. Harriman bought a steamship line, or established one, which he ran from Galveston in connection with the Southern Pacific, and made a through rate from San Francisco and California points to New York that was the



same as the rates from California points to Galveston, because he wanted the traffic but did not want it to move via Panama. Whether there was any profit in that, or whether he did it in order to destroy competition via Panama, I do not know, but it has resulted in the congestion of the rail traffic of the United States; so when a crisis comes, or when there is an enormous production, the railroads break down. They have broken down now, so that the President, we are informed, is considering the very grave question as to whether he will not have to take the railways over as a Government agency during the war in order to get some efficient movement.

Mr. ESCH. Was that the same time that the Southern Pacific owned the Pacific Mail and had those very profitable leases or contracts for traffic across the Panama Railroad?

Mr. BRISTOW. Yes; it owned the Pacific Mail, and a congressional investigation was made, and I think Fellows, of New York, was the head of it, and he made a report, and that is in the Congressional Record here somewhere—I put it in the Congressional Record four or five years ago—which gives the details of that traffic arrangement. When I was the commissioner of the Panama Railroad I made a report that contained the details of it. It is set forth accurately in that report—it has been several years since I have looked at it—the methods that were resorted to in order to destroy competition are shown there fully. I do not think we can get away from those evils as long as these roads are owned as they are now, so I have come to the conclusion that we have got to change the ownership of the railroads and have a common ownership.

When we start to consider the plan we get into a field of speculation and controversy. I do not believe the Government ought to buy these railroads and pay for them out of money obtained from taxation. I do not believe they ought to be run as Government agents. I want to make this suggestion for your consideration, if you deal with this subject, and I have been advised that you are contemplating dealing with it. There should be organized a national bureau of railway finance, or some bureau of that kind, equivalent in its authority and powers to a board of directors of a corporation, and let this bureau or corporation, whichever it may be, acquire the railroads of the United States and pay for them by issuing stock. Let the law guarantee that that stock shall draw, we will say, 4 per cent as a minimum or 6 per cent as a maximum return every year, and direct the Interstate Commerce Commission to provide rates that will maintain the properties, pay all operating expenses, and provide such return on the value. These are not Government obligations; this stock will not be a Government obligation, not a dollar of it will be paid for by taxation. It rests upon the value of railway property. The return is guaranteed by a charge for the traffic of the people that the railways handle. I do not think there could be any better security. The railways of the United States are as essential to the commercial and industrial prosperity of this country as the highways are to any community, or the streets to a city, or water to the human body. The traffic has got to be moved. It is as certain of a return, or more so, than the power of taxation, because commerce will move even when governments fail. If the earnings of this system are devoted to its maintenance and its operation, and to the paying of a return on its value, the people can not complain—that is what it

ought to do. So it would be a business concern and not political, and I think would be successful. Then you can utilize every transportation agency. Where there is a weak road its business can be adjusted so that it can be strengthened and the system as a whole will sustain itself. And then there would be no incentive to destroy every competitor, because it would not be necessary. It can not pay more than so much, and therefore no incentive for extortion. I think that would be very much better than for the Government to raise the money to acquire them by taxation. I am afraid of that. If you tax the public to buy these railroads, and tax the public to operate them, and there is a deficiency, it is so easy to levy a tax and make everybody pay to make it up. I think you have got to devise a system as I suggest in order to make the system sustain itself, and then with a revision of the system of rates, so as to move the traffic at the least cost, so that the business is not created for the purpose of making a profit out of it and reasonable charges are made. You will thereby relieve congested centers.

The State of Iowa, I might say, has got a system of rate making within the State that has resulted in more good towns and fewer big ones for a like population and like territory than any State in the Union.

Mr. ESCH. But Iowa is losing population?

Mr. BRISTOW. That is because she had not larger cities, and the people are going to the cities from the farms. There is probably not a county in Wisconsin that is purely agricultural that is gaining in population—

Senator CUMMINS. That is not quite accurate.

Mr. ESCH. The last statistics I saw showed quite a decrease for 1910 over 1900. Of course that is because a great many of the young men went to the Dakotas and Montana and Canada and sought cheap farms. That is a very reasonable explanation, because I know our State lost thousands the same way.

Senator CUMMINS. It is largely due to the fact we have no big cities, and it has been in this country that the large cities have gained in population and not the country.

Mr. BRISTOW. I think that you will find that in almost every community in the United States, as a rule, there will be exceptions, the rural districts lose in population and the urban districts gain. Take the county in which I live in Kansas. The town is growing rapidly, the country is not growing any in population. Take the counties, the county seat towns are increasing in population, and the populations of the townships are not increasing; in many cases they are decreasing. There is the tendency from the farm to the city.

Mr. SIMS. But the value in farm lands, both in Iowa and Kansas, has increased all the time?

Mr. BRISTOW. I do not know that it is increasing now.

Mr. SIMS. It may have got so high in Iowa that it can not increase any more.

Mr. BRISTOW. It has been increasing, but I do not think it is now increasing.

Mr. SIMS. I mean it has increased regardless of the fact that the population has decreased.

Mr. BRISTOW. Very much—the value of the land has increased.

The advantage of this plan that I suggest is that the railway system could then be a business concern; a stockholder could be anybody who wanted to buy. It would pay him a return, whatever was fair, that could be determined upon. He would have nothing to do with the management of it any more than a bondholder has to do with the management of the Government, and I think it would remove a great many of these evils.

I do not think you can remedy the existing railroad defects under the existing system of ownership, and in my judgment the American people will never consent for a single corporation to own all these railroads and operate them for profit, because the power and the selfishness of man is so great that it would not last.

It would be a monopoly of a facility that is vital to the life of the people.

MR. SIMS. What would you call that power you propose to have, the ownership, a corporation, or what?

MR. BRISTOW. I would say a "Bureau of Railway Finance," and all the directors appointed by the President of the United States for a term of years.

MR. SIMS. It would be a Government agency?

MR. BRISTOW. Yes.

MR. SIMS. The Government in fact would own the railroads?

MR. BRISTOW. The people would own them—would buy the stock.

MR. SIMS. You would want to run it as the trustee?

MR. BRISTOW. Yes.

MR. SIMS. Then who would own the rolling stock, the tracks and terminals

MR. BRISTOW. The people, the stockholders.

MR. SIMS. The present stockholders?

MR. BRISTOW. No; anybody that wants to buy it. The first thing would be to determine on the value of these roads and then——

MR. SIMS. How will you condemn and get charge of your property, though?

MR. BRISTOW. Mr. Sims, that could be done in one of three ways.

MR. SIMS. That is what I want. I knew you had studied that out.

MR. BRISTOW. First is the English system that Mr. Brookhart referred to. The provision that was incorporated in the English law, I believe, was to take the roads by paying twenty-five times the net earnings, or something like that, or on a 4 per cent basis.

MR. SIMS. I heard that.

MR. BRISTOW. It was on a 4 per cent basis.

MR. SIMS. But in whom would you vest the physical property under your plan?

MR. BRISTOW. In the stockholders. And how will they get the stock? Of course this is not a 4 per cent country. If you fix that at 5 per cent, it might be fair; but there are two plans that impress me very much better than that. One is the average market value of the stocks and bonds of these roads for a period of years.

MR. SIMS. Prior to the time the law passed?

MR. BRISTOW. Prior to the time the law passed. If it were passed in the next year, 1918, why, take the average market value of the stocks and bonds, the securities of these roads, for five years prior to January 1, 1917.



Senator CUMMINS. That would have to be a volunteer arrangement?

Mr. BRISTOW. Yes. Now I do not know what that would work out. I have it worked out here on one or two roads. I will submit it to you in a few minutes. That is what the investor has considered the road worth. In some cases he has been too high; in others he may have been too low. You could not, however, do a material injustice, because that is what those who own it paid for it.

Mr. SIMS. The way you find the average price of a farm product for a number of years is to take the average selling price of all the products in the market and add it up?

Mr. BRISTOW. Yes.

Mr. SIMS. That is the way you would do in this system?

Mr. BRISTOW. Yes.

The CHAIRMAN. I think we had better let the Senator proceed and then examine him afterwards.

Mr. BRISTOW. The average market value of the securities, for a series of years, would give the public what had regarded those roads worth, or you can wait until the valuation of the Interstate Commerce Commission is completed, and take that.

The other plan would be the quicker, and I should think the most satisfactory, to the investors in railroads.

Take the stock of the Santa Fe Railroad, or the Pennsylvania Railroad—it is owned by thousands of people. Anyone who wanted to exchange the stock that they held in that railroad for stock in the corporation that is organized, with this guarantee of a return, could exchange it at its average market value, dollar for dollar, for the new stock. If they did not want to make the exchange, then I would have this finance board buy it and sell the stock of the national corporation to the public and get the money to pay for it. There could be no injustice to any railroad investor. You are giving him an equivalent interest in the railway system of the United States, with a guaranteed return and a power to levy a charge upon the transportation facilities of 100,000,000 of people to pay the return. It is paying a higher return now under the present management.

The physical operation of these railroads is now all right. The operation in general of the American railways is good. My experience is that the operating officers are very capable and earnest men, who are ambitious to operate their lines in the most expeditious and efficient way. The difficulty is to satisfy the bankers or the syndicates that control them, or some ambitious speculator who gets control and begins to fight in a competitive way for the domination of some of these properties; then is when the disturbance of transportation comes. That would be all eliminated. There are two systems of railway operation that throw some light on this subject. The Panama Railroad is owned by the United States, but it is operated by a corporation. I think the same officers are now operating that railroad that were operating it when it was owned by the French, and during my familiarity with it it was well operated. It competed with private concerns for business and paid its own way. The Government never contributed anything to it as a subsidy, and when it gave it traffic, so far as freight was concerned, it would not give it to the Panama Railroad unless the road would carry it as

cheap or cheaper than some private line would. It has been successful, and there has never been a scandal connected with it in the 12 years that we have owned it.

I was impressed some years ago with a system which the Mexican Government has established. That seems to be a strange place to go for any illustration, but nevertheless it is there. The Diaz administration was ambitious to have a railroad across the Isthmus of Tehuantepec, to correspond to the Panama Railroad, and the Mexican Government contributed a large amount of money to the construction of the Tehuantepec National Railroad. It failed, and the Government had to take the road, so it owned it. The Mexican Government employed Sir Wheatman Pierson, as you gentlemen know, to construct ports on the Pacific side and the Atlantic side, and they constructed very fine ports there, and until the Canal was opened that road did a very prosperous business, did a better business than the Panama road did; it was managed more successfully and it was profitable, so Mr. Pierson told me when I visited him at one time at Tehuantepec. They had an arrangement by which the first lien on the revenues was for operating expenses; that was the first charge against the revenues of the line. The second charge—I am giving this from memory, but I think it is correct—was a charge for maintenance to keep the line in condition. The third was a payment to the Mexican Government, a return on the money that it had invested in it; then the profits were divided between the operating company and the Government. That was a partnership. I talked with President Diaz and his cabinet officer who had charge of it—I have forgotten just what they called him—and they were very enthusiastic over it, and I understand that up to the Mexican troubles and the opening of the Canal it was a very prosperous concern. I think now it is in financial troubles, because it can not get any business in competition with the Canal.

Those are two illustrations as to methods of operating. There might be an operating corporation organized that could operate these roads upon some system that might be devised. I would not have them operated by Government officers. The Panama Railroad has not been. The officers, the president, and the executive officers of the Panama Railroad discharge and employ people at will, and we do not interfere with it, and we ought not to; we ought not to have anything to do with it; that is, politically speaking. This theory represents the ideas I have acquired from studying this question, and I submit it to you gentlemen for your consideration, because I believe it has got some sound principles in it, and I am afraid that governmental ownership and governmental operation would be disastrous in a country where political emergencies have as much effect on our institutions as in the United States.

The combination of operating employees, in order to obtain wages, and the exercise of political power, as they do now to a certain extent, might be increased by Government operation, but if you will balance the interest of the shipper against the interest of the employee, the interest of the stockholder, who is a private investor, against the interest of the employee, when the rates have to be increased in order to meet an additional demand of the employees' organization, if the rates are increased unduly or the earnings are reduced from the maximum to the minimum, you would balance the political influence

of the one against the other, because there are selfish interests of both of the three elements, and I think would relieve the country from what appears to be a menace.

Men are selfish, and it makes no difference what their vocation is, when they have power to exercise authority for their self-interest, they are likely to do it, whether they are capitalists or laborers or investors, or whatever they may be, and you have got to have some balance of interest somewhere in order to maintain the perpetuity of our institutions.

There is another thing. If we own the railroads as Government institutions, paid for by taxation, and we had a dull year, and we had to levy general taxes in order to keep them going, it would be very unfortunate. It ought not to be. If we had an exigency, such as that which prevails now, and the Federal Government was in need of money, we might raise the rates in order to get the revenue for other purposes which I think would be very unjust. It ought to be operated as a business institution, sustaining itself, eliminating the selfish elements which resulted in the disaster which has come to the transportation system of the United States.

I have had some figures compiled that are quite interesting as to the valuation by the two systems, the average value of the securities over a period of five years, and the valuation by the Interstate Commerce Commission, and also the book value. I have discarded the book value because I do not think it is accurate. I have taken the Santa Fe and made a comparison of the book value and the value of the stocks. There is not any valuation yet by the Interstate Commerce Commission of the Santa Fe such as there is of the Kansas City Southern, of which a tentative valuation has been filed, to which I will refer to later. The Santa Fe owns 11,270 miles of the first main track; that is, of main track. Some of it is double track and some of it has four tracks, but its main line, first track, is 11,270 miles; other tracks, including the double track, four tracks, etc., constitute 1,003 miles, and the yards, and sidings constitute 4,072 miles of track.

I will make these comparisons from the main-line tracks, because I think that is the best comparison. The sidetrack is a part of all railroads to give facilities.

The book investment in the Santa Fe is \$715,000,000 (I will only use the round numbers, in millions). There are \$15,000,000 in other investments, investments in other property, and that I deduct from the book value of the road, leaving the book value of the Santa Fe at \$699,000,000.

The CHAIRMAN. For how many miles of track?

Mr. BRISTOW. For 11,270 miles. That is the book investment of the Santa Fe, which is \$62,000 a mile for the main track.

Mr. SIMS. For the 11,270 miles?

Mr. BRISTOW. Yes.

Now, that is the book value. The value on the basis of the average market price of stocks and bonds for the period of five years, 1912 to 1916, inclusive, is \$623,000,000; the par value is \$640,000,000.

The Santa Fe's market value comes very close to its par value, missing it only \$17,000,000. I think that is a high price for the Santa Fe Railroad. That is more than it cost. I think it is more than the Government ought to pay, but it is an easy way, and the excess is not as great as it might be if all of the imaginary elements of



value which the carriers are insisting be incorporated in this Interstate Commerce Commission valuation should be accepted. It could not be an injustice to the carrier to pay him for his property what the public has said it was worth for five years, and if the public paid slightly more than we ought to in order that we may get rid of the existing conditions, I think we could afford to do it.

I also figured out the net operating revenue return upon the book, and the return upon the market value of the securities, which was interesting. In 1914 the Santa Fe's return, its net operating income on its book investment, was 4.58 per cent. The return on the market value of the securities that year was 5.14 per cent. In 1915 the return on the book value was 4.98 per cent; on the market value of securities it was 5.59 per cent. In 1916 the return on the book value was 6.15 per cent and on the market value 6.91 per cent. The average for the three years on the book value was 5.24 per cent, and on the market value it was 5.88 per cent.

Taking the Kansas City Southern, it shows that, in some cases, if you take the market value of the stocks for a period of five years, you pay more than it is worth, because the market value of the Kansas City Southern stocks has been during this period of time much more than the road is worth. It is overcapitalized very much more than the Santa Fe is.

I referred this morning to the application of the Orient Railroad for a capitalization, and they wanted a large amount, because they could get more for a large amount of stocks than for a small amount, although it represented exactly the same property. Well, the Kansas City Southern, which is one of the Stillwell roads, and you gentlemen who are familiar with Mr. Stillwell's method of building know about what that means, was overcapitalized very much. He took advantage of that principle, the speculative feature that is considered in cases of that kind. The book investment of this road was \$83,000,000, plus miscellaneous property, and the affiliated companies, all told, is \$104,000,000; the main-track mileage is 823 miles, showing a book investment per mile of first main track of \$127,000 a mile. Of course, that is ridiculous. That was built up in the manner I suggested this morning. Mr. Stillwell had numerous construction companies, and he would agree to turn over certain bonds and stocks to the construction company that would build a part of this road, and when that part of the road was built by the construction company and delivered to the railroad company, that company would write in as the cost the amount of the stocks and bonds that had been issued in payment for construction, and that might be twice what it cost to construct it, or it might be more; so he built up a book investment of \$127,000 a mile.

There was outstanding in the years 1912 to 1916—it had been reorganized—I do not know what the original capitalization may have been, but after the reorganization the par value of the stocks and bonds was \$100,000,000, and the market value was \$57,000,000. The market value of the capital obligations for mile of main track was \$70,000.

Senator CUMMINS. That was over a period of five years, an average?

Mr. BRISTOW. An average over a period of five years; yes. This should be said about the Kansas City Southern. It has not any branches of any consequence. This is practically a main line railroad,

running from the Gulf of Mexico to Kansas City, and does a through business. The Santa Fe has numerous branches, so that while at first glance it is ridiculous to value the Kansas City Southern higher than the Santa Fe on its mileage value, yet the disparity is not as great as on the surface it would appear to be, because the Santa Fe has numerous branches that cost very little to construct.

The division of valuation of the Interstate Commerce Commission has completed the valuation of the Kansas City Southern and submitted a tentative value, and that was served on the States. They found the original cost of this road, the reproduction value and the reproduction value less depreciation. The original cost was \$47,000,000, or \$57,000 per mile of road, main line. I think that is excessive. Stillwell, so I have been told, and I think it is accurate, would let the contracts for construction, not to the lowest bidder, but frequently to the bidder who could find a sale for his securities, and if some man who wanted to construct a section of the road would take a certain amount of bonds, or would obtain the sale for a certain amount of bonds, he would let him have the contract, even at more than another contractor on a cash basis would build it for; so I think this cost is excessive, but, of course, I could not produce any evidence actually as to that, because the records are lost, only I believe from what I have heard that was his method.

The reproduction, new, of the road, the division of valuation finds to be \$48,000,000, or \$58,000 a mile. The reproduction, new, less depreciation, \$40,000,000, or \$49,000 a mile.

Now, let us see what the net operating revenue on the Kansas City Southern—

Senator CUMMINS. Before you go to that I want to recall, so you will have it in mind, the per mile value of the securities over a period of five years.

Mr. BRISTOW. \$70,000.

Senator CUMMINS. Against \$49,000 of cost?

Mr. BRISTOW. Yes. Now, this finding of the Bureau of Valuation, of which Judge Prouty is at the head, is contested by the carrier. It claims a very much higher valuation, but in order to get such higher valuation it injects into its alleged value the intangible elements of value which are in dispute and what ultimately the courts or the Interstate Commerce Commission will find ought to be included, that Judge Prouty in his judgment has cut out, we have not any way of knowing. If the carrier had its way about it the valuation per mile would be more than the book value.

I want to call your attention now to the earnings on these various values for the years 1914, 1915, and 1916, taking the net operating income. The net operating income in 1914 was \$3,490,000 plus. The return on the book value was 3.33 per cent. The return on the market value of the securities was 6.2 per cent. The return on the original cost, as found by the Bureau of Valuation, was 7.38 per cent; on original cost, less depreciation, it was 8.57 per cent.

The CHAIRMAN. You mean original value, do you not?

Senator CUMMINS. You mean cost of reproduction?

Mr. BRISTOW. Cost of reproduction less depreciation, that is, its existing value in its depreciated condition.

The CHAIRMAN. What rate did you say?

Mr. BRISTOW. I said 8.57 per cent. Now, just to illustrate how the Interstate Commerce Commission, in handling the passenger rate case with its ability and its earnestness, and I am not reflecting on it at all, because I believe those gentlemen are doing, from their point of view their work earnestly, and conscientiously, but it is impossible for men to get detailed information in regard to such a vast property as the railway property of the United States is, accurately, in a short time. They based the interstate passenger rates on the book value of these properties, and the Kansas City Southern was one of the roads that was considered as fixing the southern rate. I think that was considered, was it not, Mr. Chambers, in the Kansas rate?

Mr. CHAMBERS. The whole rate.

Mr. BRISTOW. But not in the southern Kansas rate?

Mr. CHAMBERS. Not in southern Kansas rate.

Mr. BRISTOW. Not in the southern Kansas, but it was in the general southwestern rate, and they showed a return of only 3.33 per cent on the book value, which they concluded was not enough. Anybody who knows anything about the value of railroads knows that is preposterous for that railroad to claim a return on \$127,000 a mile. When you come to the return on value of its securities, which is \$70,000 a mile more than it ever cost, or than it is worth, on its business in 1914 it made 6.2, and in 1915 5.2, and in 1916 6.29 on the market value of its securities.

The average for those three years was 5.88 per cent. The average for those three years on the original cost, as shown by Judge Prouty valuation, is 7.20 per cent, and its return the reproduction new, less the depreciation, value is 8.37 per cent.

I do think you gentlemen can think that the State commissions should be criticized because they contest the fixing of a rate which the people have to pay upon such a basis as was used in this Western Advance Rate Case, which resulted in the increase which the State of Kansas is combating now. This is the earning of this road, which has been one of the bankrupt institutions in our section of the country during the years just preceding the application, or the advocacy of the carriers for this change in the regulatory authority upon the ground that they are suffering financial loss, that their credit is impaired, and they are not able to borrow money. It seems to me that its earnings have been fine.

I have some figures here and I do not want to weary you gentlemen. I am afraid I am dragging this out too long now, but I have some figures on the Minneapolis & St. Paul Railroad along the same line.

Mr. ESCH. We shall be glad to hear them.

Mr. BRISTOW. I should have made similar comparison on the Santa Fe or the Rock Island or the Southern Pacific or other roads, large roads, if the tentative valuation has been ready, but the Kansas City Southern is the largest road where the tentative valuation has been completed, and so I took it.

The book investment of the Minneapolis & St. Louis—and as I understand it the Minneapolis & St. Louis is not a very prosperous concern—

Senator CUMMINS. Are you including in that what is known as the Iowa Central, the old Des Moines & Fort Charles, which now is owned by the same company?



Mr. BRISTOW. That is included. It is a consolidated company.

Senator CUMMINS. There have been one, two, or three very unprosperous roads in our State.

Mr. BRISTOW. The par value of the capital stock and bonds, including the equipment trust certificates, is \$70,000,000, and the market value is \$37,000,000. These figures are for five years, 1912 to 1916. The market value is \$37,000,000. The market value of capital obligations per mile of road is \$24,000.

Now, the net operating revenues for 1914 were \$2,000,000. The return upon book investment was 2.96 per cent, and the return upon market value of securities was 5.40 per cent. So, the return on the market value of the securities is not bad, and while I am not familiar with the road, but if it is like a great many of the prairie roads, \$24,000 a mile is not a low valuation.

Senator CUMMINS. Well, possibly you know that the road runs from St. Paul to Peoria, Ill. That is the part of which the Iowa Central is one of the chief links, which runs from St. Paul to Des Moines. It also has a line running into South Dakota.

Mr. BRISTOW. I knew it was one of the poor roads.

Senator CUMMINS. It is built over a prairie country of course, and a comparatively level country.

Mr. BRISTOW. Yes, sir. The return on the market value of the securities was 5.4 per cent in 1914; in 1915, on the book value it was 3.53 per cent, and on the market value 6.43 per cent. In 1916, on the book value, it was 4.41 per cent, and on the market value of the securities 7.86 per cent. The average return on the market value of the securities was 6.56 per cent, and the average return on the book value was 3.60 per cent.

Now, this gives a higher return on the market value of the stock than a prosperous railroad would give, because the stock and securities of an unprosperous road, demands a higher return or the investor will not invest in it. There is more risk involved. It is like a banker who charges a man who is not well fixed financially sometimes more when he borrows money than a man who is. There is more risk in that, and you will find that theory is borne out in Prof. Norton's exhibit there, that the good railroads can borrow money at a less rate than the poor ones.

I submit the tables in detail:

#### KANSAS CITY SOUTHERN RAILWAY.

(Report to Dec. 31, 1916.)

Book investment in road and equipment.....	\$83,741,845
Book investment in miscellaneous physical property.....	\$5,284,935
Book investment in affiliated companies.....	\$15,875,102
Total book investment.....	\$104,901,882
Miles of first main track.....	823.02
Miles of other main track.....	17.77
Miles of yard track and sidings.....	424.41
	1,265.20
Book investment per mile, first main track.....	\$127,459.70
Book investment per mile, all tracks.....	\$82,913.25

*Value on basis of the average market price of stocks and bonds for a period of 5 years, 1912-1916.*

	Par value.	Market value.
Common stock outstanding.....	\$29,959,000	\$7,789,574
Preferred stock outstanding.....	21,000,000	12,000,000
Bonds and equipment certificates outstanding.....	49,142,000	37,592,000
	100,101,000	57,381,574

Market value of capital obligations, per mile, first main track..... \$70,451.00  
 Market value of capital obligations, per mile, all tracks..... 45,828.00

The division of valuation of the Interstate Commerce Commission has completed its inventory valuation of the physical property of this.

MINNEAPOLIS AND ST. LOUIS RAILROAD.

(Report to Dec. 31, 1916.)

Book investment in road and equipment..... \$67,609,001  
 Miles of road owned (mileage of all tracks not given)..... 1,537.69  
 Book investment per mile of road owned..... \$43,967.80

*Value on the basis of the average market price of stock and bonds for a period of 5 years, 1912-1916.*

	Par value.	Market value.
Capital stock (all common).....	\$24,069,200	\$3,562,252
Bonds and equipment trust certificates.....	46,681,701	33,568,522
	70,750,901	37,138,774

Market value of capital obligations per mile of road owned..... \$24,147.10

*Net operating revenue and return.*

	1914	1915	1916	Average 3 years.
By operating income.....	\$2,003,549	\$2,387,586	\$2,918,866	\$2,436,667
Return upon book investment..... per cent.	2.96	3.53	4.41	3.60
Return upon market value of securities..... do.	5.40	6.43	7.86	6.56

ATCHISON, TOPEKA & SANTA FE RY.

(Report to June 30, 1916.)

Total book investment to June 30, 1916..... \$715,477,622.71  
 Deduct other investments (other property)..... 15,636,125.92  
 Book investment in railroad property..... 699,841,496.79

*Owned mileage.*

Miles of first main track..... 11,270.70  
 Miles of other main track..... 1,003.26  
 Miles of yard track and sidings..... 4,072.28  
 16,346.24  
 Book investment per mile, first main track..... \$62,093.90  
 Book investment per mile, all tracks..... \$42,813.60

Value on the basis of the average market price of stocks and bonds for a period of 5 years,  
1912-1916.

	Par value.	Market value.
Common stock outstanding.....	\$214,312,500	\$217,312,875
Preferred stock outstanding.....	124,173,700	121,690,226
Bonds outstanding.....	301,552,353	284,148,589
	640,038,553	623,151,690

Market value of capital obligations per mile of road (first main track)....	\$55,289.00
Market value per mile of all tracks.....	38,122.00

*Net operating revenue and return.*

	1914	1915	1916	Average 3 years.
Railroad operating revenue.....	\$32,042,797	\$34,852,744	\$43,043,518	\$36,646,353
Return upon book investment..... per cent..	4.58	4.98	6.15	5.24
Return upon the market value of securities..... do....	5.14	5.59	6.91	5.88

	Original cost.	Reproduc- tion new.	Reproduction new less depre- ciation.
Total.....	\$47,278,760	\$48,407,231	\$40,708,343
Per mile of road.....	57,445	58,818	49,402
Per mile, all tracks.....	37,368	38,260	32,175

*Net operating revenue and return.*

	1914	1915	1916	Average 3 years.
By operating income.....	\$3,490,194	\$3,082,757	\$3,645,508	\$3,406,153
Return upon book investment..... per cent..	3.33	2.94	3.48	3.25
Return upon market value of securities..... do....	6.02	5.32	6.29	5.88
Original cost..... do.....	7.38	6.52	7.71	7.20
Reproduction less depreciation..... do....	8.57	7.57	8.96	8.37

Now, gentlemen, there is one thing that I have heard that I want to read to you, taken from the cross-examination of Rea, of the Pennsylvania Railroad, before the Interstate Commerce Commission some week or two ago, and then I am through unless you gentlemen want to ask me some questions. This was in the case for an increase in rates, but it has a direct bearing upon the financial condition of these railroads. As I stated in the beginning, the premise upon which this claim by the carrier is made to take from the States their authority is that their credit is impaired by too much regulation on the part of the States. My contention is, and I think I have demonstrated it by statistics here that will not be controverted as to their accuracy, that the credit of the railroads is good, and instead of their earnings being depleted by the action of railway commissions, that their earnings now are greater than they ever have been, and that if their credit is not good it is not because of lack of earnings.



It is due to other causes, for which the public is not in any way responsible.

Mr. Rea was a witness in the 15 per cent advance case which was recently before the Interstate Commerce Commission, which resulted in a recommendation to Congress, I believe, or to the President, that the Government ought to either lend the railroads some money or take them over and operate them. Mr. Thorne, who was one of the attorneys for the shippers, protesting against the increased rates, cross-examined Mr. Rea.

Mr. THORNE. Now, Mr. Rea, during the past 50 years your company has never failed to pay a dividend, has it?

Mr. REA. It has not.

Mr. THORNE. Now, Mr. Rea, I will ask you if your reply just made does not also apply to the fiscal year ending June 30, 1915. I will repeat the question: You had enough to pay all of your operating expenses, taxes, interest on funded debt, pay all your dividends, and had \$30,000,000 left over, which was the greatest in your entire history, with only one exception. Is that correct, or is it not correct?

Mr. REA. I think it is correct.

That is, the fiscal year ending June 30, this year.

Mr. THORNE. Now, as to your property account, I notice, if I am not in error, that you have increased your property since 1907 by approximately \$500,000,000. Is that correct?

Mr. REA. Yes, sir.

Mr. THORNE. And during that time you have increased your total capital obligations \$150,000,000, approximately?

Mr. REA. Yes, sir.

Mr. THORNE. That leaves an increase of \$350,000,000 that did not come from the sale of securities?

Mr. REA. Not necessarily.

Mr. THORNE. I also find that your surplus, unappropriated surplus, in 1917 was greater than in 1907. Now, I ask you, did that \$350,000,000 come from new money put in the property by the owners of the property purchasing additional security, or by outsiders purchasing additional securities, or did that \$350,000,000 come from earnings?

Mr. REA. I could not say offhand. I would have to analyze the account.

Mr. THORNE. Where else could it have come from?

Mr. REA. It might have come from the sale of property and securities in the treasury.

Mr. THORNE. But your unappropriated surplus was greater than it was then, and those factors are reflected in your surplus, are they not?

Mr. REA. Well, I could not say offhand, but certainly a large amount came from earnings.

Mr. THORNE. Did not practically all of it, Mr. Rea? Where else could it come from? Your surplus is greater now than it was then.

Mr. REA. Well, I assume that you are right.

Mr. NORMAN. Do you think that your company should be allowed to increase its rates so as to earn as much or more than in normal times, after paying your part of the cost of the war?

Mr. REA. Yes.

Mr. PATTERSON. What has been the average expenditure for road and equipment of the Pennsylvania System for the last 17 years?

Mr. REA. \$53,000,000.

Mr. PATTERSON. Will you please state to the commission what expenditures must, in your judgment, be made if the Pennsylvania System is to adequately perform its functions during the ensuing year?

(Mr. Patterson was the attorney for the Pennsylvania Co.)

Mr. REA. Well, very much more than \$53,000,000 per year.

Mr. PATTERSON. Of what nature are these expenditures which must be made?

Mr. REA. They are for improved terminals, running tracks, engines and cars, various improvements to lines, third tracking, fourth tracking, and all other improvements to keep the whole property in balance, and to meet the expanding business which, as is well known, doubles about every 12 years.

Mr. PATTERSON. Does this proposed rate increase, the question of securing additional net operating income to the railroads, bear any relation to the question of securing additional facilities, whether of road or equipment?

Mr. REA. Unquestionably. It strengthens the credit of the road and enables it to continue the policy which has given it its position to-day in the financial world.

Mr. PATTERSON. Is it or is it not going to be absolutely necessary, when the time comes, to make all of these improvements out of earnings, to reimburse the treasury by the sale of securities, when they are available?

Mr. REA. That seems to be the only means at present, the Government practically and necessarily closing the financial market to all other financing.

Mr. PATTERSON. Now, after you get through providing for these operating expenses, have you got to have sufficient net operating income to provide a basis of credit?

Mr. REA. Yes, sir.

That shows very conclusively that the road does not need any additional rates, because of the financial necessity of maintaining its property and paying returns, but that it wants increased rates in order to acquire money for the purpose of investing in property which afterwards is to be capitalized. I think first that that is contrary to the principle upon which railroads are permitted to operate in the United States—to take their capital from earnings. The accounting system of the Interstate Commerce Commission requires them to keep the capital account separate from earnings, so that earnings can not be involved in any capital charge without the knowledge of the commission.

Mr. Thorne returns to the cross examination:

Mr. THORNE. The public has paid three-fourths of that \$500,000,000 out of earnings?

Mr. REA. On reasonable rates. They were entitled to every dollar of it.

Now, if they paid dividends every year for 50 years and since 1907, in 10 years, have put into their capital account \$350,000,000 out of earnings, I do not think they have any cause to come before a congressional committee to complain of any financial straits that they are in, and I am quoting from the testimony of the president of the Pennsylvania System, given before the Interstate Commerce Commission.

Mr. THORNE. And as I understand it, if this advance is granted it would not enable you to market, or you would not try, at the present stage of the market, to issue a new bonded indebtedness?

Mr. REA. No; we do not need it. Just as soon as we do need more money we will be in the market. Probably next spring.

Commissioner McChord then interrogates Mr. Rea and asks him in substance—I have not got it exactly; it is quite a long question if the Government would furnish capital or money to the carriers to make these extensions and improvements, and would furnish capital, cars, engines, or anything else necessary to meet the emergency, if the additional rates would then be necessary, which the companies were asking.

Mr. Patterson here interjects this question:

You do not mean to say that that would do away with the necessity of increased rates?

Mr. REA. I do not.

He wants the rates anyway. That is not unnatural if a railroad is private property and run for profit, to want all the profit it can get (continuing):

Commissioner McCHORD. Do you want that in addition?

Mr. REA. Oh, absolutely.

Mr. PATTERSON. That is what I thought.

Now, Commissioner Clark asks this question:

Mr. Rea, I want to ask you, in regard to one of Mr. Patterson's questions, and your answer: First, to be sure that I understood you correctly, and if I did, I would like to have you explain a little bit further. He asked you a question, and you answered it in the affirmative, as I understood it, to the effect that you considered it necessary, as the only means of securing the money, that the rates should now be increased, so, that you might make improvements which are imperatively necessary, and which ordinarily would be charged to capital, and reimburse the Treasury by issuing securities later.

Mr. REA. Yes, sir; Mr. Commissioner, it seems to me that is the only possible way we have of securing the money at the moment. You see, from my standpoint, there, that we have under expenditure about \$103,000,000, at the rate it has been going five to six or seven million dollars per month—these have to be made, or the work will stop, all of which is essential or necessary to the economic operation of the railroad and its enlarged output.

Now, gentlemen, Mr. Chambers suggested, Senator Newlands, that you inquired as to what the average net revenue of the railroads for three years prior to 1916 were. Mr. Chambers advises me that these figures here show that to be \$750,000,000 in round numbers. That was the average net operating income for the years prior to 1916.

Gentlemen, I have finished what I have to say.

The CHAIRMAN. Senator Bristow, your suggestion, as I understood it, was that an organization should be effected by national legislation, at the head of which should be a bureau of railroads or finance?

Mr. BRISTOW. A bureau of railway finance would be the name.

The CHAIRMAN. A bureau of railway finance, which would direct operations of this organization, and that the shareholders in this organization should be the general public, and that shares in that organization should be issued with a view to taking over all the railways of the country, those shares being either given in exchange for the existing securities of these railways, or being sold in order to purchase and retire those securities.

Mr. BRISTOW. That is the idea that I have, Mr. Chairman.

The CHAIRMAN. That contemplates, then, that all the railways of the country should be conducted by one organization, and that the directors of that organization should be Government officials?

Mr. BRISTOW. Yes, sir.

The CHAIRMAN. But that the different systems of these railways continue with their present staffs and operating forces, except so far as they may be changed by the directing officers of the Government?

Mr. BRISTOW. Yes, sir; that is the idea.

The CHAIRMAN. Now, then, that organization would practically be a national corporation with Government officials as the trustees and directors. Is that so?

Mr. BRISTOW. Yes, sir.

The CHAIRMAN. Now, then, assuming that was done, taking up the question of taxation by the States: Would you permit the States to continue their present system of taxation, or would you relieve those railroads from taxation, or would you prescribe a rule under which they should all be taxed by the States?

Mr. BRISTOW. I would let the taxation go on just as it is now. I would disturb the local conditions just as little as possible.

The CHAIRMAN. Leaving that to future legislation, I presume, if there appeared to be any necessity for it?

Mr. BRISTOW. This would be private property, as now, and ought to bear its burdens the same as other private property.



The CHAIRMAN. What would you do in reference to the shares of that organization; would you subject those shares to the taxation of the respective States in the hands of the holders, wherever they may be, and according to the law of the locality in which the owner resided?

Mr. BRISTOW. I would leave it just as now, as other shares are taxed. I would not make any difference between shares in that organization and any other private property.

The CHAIRMAN. You are aware that, according to the laws of some of the States, the railway shares are valued and taxed as other property? If, then, these shares were, in all of the States, subject to taxation according to their valuation, then the property of the railroads was also taxed upon its valuation, you would have a system of double taxation, would you not?

Mr. BRISTOW. In so far as it is now, it would be.

The CHAIRMAN. Do you not think that it would insure a lower rate of interest and larger investment by the public in these securities, if the purchasers, in whatever States they may live, realized that the shares were not subject to taxation, the property of the organization in the aggregate having been taxed by the respective States?

Mr. BRISTOW. Senator, I do not think that is very material. The present system is to charge the taxes on the property as a part of operating expenses. That is not borne by the shareholders, except as it depletes the amount of revenue for dividends. In any rate case or controversy which the commission has had before it, the taxes are a part of the expenses exempted, and in all of the figures in the Kansas rate case and other cases, we have charged that out as one of the expenses that have gone to maintenance and operating expenses.

The CHAIRMAN. I understand that.

Mr. BRISTOW. If those shares were exempted from local taxation, that would make them more desirable, of course. I do not think it is necessary, however, to disturb the taxing conditions in the various communities by making any exemptions, the property being vast and very valuable. That is, of course, a matter of opinion.

The CHAIRMAN. As I understand it, you propose to offer these shares with a guaranty of a minimum return of 4 per cent and a maximum return of 6 per cent?

Mr. BRISTOW. That was a suggestion; of course, the figures might be changed.

The CHAIRMAN. Assuming there is a man in a State which would subject those shares to a tax—the prevailing tax, we will say, city, county, and State—of 2 per cent upon their market value. That would mean, if their market value was the par value, 2 per cent upon a share that would secure by its guaranty a minimum of 4 per cent and a maximum of 6 per cent. Do you think a man living in a State with that kind of a law would be likely to invest in securities in that kind of an organization?

Mr. BRISTOW. That would depend on how the taxes were imposed on other similar property. If mortgages were taxed and other evidences of indebtedness were taxed, then these railroad securities should be taxed in the same way. You take a State where mortgages are exempt from taxation, and it leads to investments in mortgages by local capital. Where the mortgages are taxed, it leads to the sale of mortgages outside of the State, where they are not taxed. I do not

think, of course, that is desirable. I do not think mortgages should be taxed myself. I would leave it, however, to the future as to what changes should be made in the taxing authority, but I would not exempt the railroad properties from taxation. I think it ought to stand the same share of the burdens that other property does in the community where it is owned and held.

The CHAIRMAN. That is true. Admitting that—and I agree with you—as to the physical property of this organization, I am now talking about shares, the mere title of the shareholders represented by their certificates. Do you deem it a wise policy to permit the taxation of those shares possibly to the extent of 2 per cent upon a security which can not pay more than 6 per cent, and possibly will not pay more than 4 per cent?

Mr. BRISTOW. Well, if they tax the securities so that they only pay 2 per cent, the market would not be very good for that security in that community.

The CHAIRMAN. Your desire, of course, in creating this organization, is to produce a state of mind in the country in reference to the shares of that organization which will insure minds of the people the par value of those shares?

Mr. BRISTOW. Yes, sir; and if 4 per cent will not do it, I would increase the rate.

The CHAIRMAN. You would either have to increase the rate in those conditions or exempt the shares from taxation.

Mr. BRISTOW. I would rather increase the rates. If it would be found upon experience that the market could not be found on those rates, I would increase the rates.

The CHAIRMAN. Now, with reference to the regulation of rates, under existing conditions the Nation regulates interstate commerce rates, and the respective States regulate State rates. Would you have the same regulation apply to the rates charged by such an organization, both by the Nation and the States?

Mr. BRISTOW. I would certainly start this organization under the existing conditions, and whatever changes experience might prove wise to make I would make; but I would not make any more disturbance of existing conditions than necessary, and my judgment is that the regulation of rates—the State regulation of rates, and the controversies between State rates and interstate rates—would gradually diminish and it would be easy to find a solution.

The CHAIRMAN. You think there would be a spirit of cooperation between the regulating authorities that would result in harmony?

Mr. BRISTOW. I have no doubt of it.

The CHAIRMAN. Assuming, as you have so forcefully stated, that it is important that you should keep this regulating power as near to the different localities as possible, so that a knowledge of local conditions and the environments may exist in the regulating power, would not that purpose be accomplished by an addition to our present system of national regulation, through the Interstate Commerce Commission, of regional commissions having jurisdiction each over from three to five States?

Mr. BRISTOW. Senator, I do not think so.

The CHAIRMAN. With the commissioners on such regional commissions selected from each one of the States within its jurisdiction?

Mr. BRISTOW. I do not think so. I think that the entity of the State in this regulation should be preserved the same as it is in other

local matters, and that the commissioners ought to be selected as the people of the State desire to select them. Some of them are appointed by the governor, some elected by the people, and others are selected by an executive council of the State or some organization of that kind. I would leave the States the jurisdiction they have, because I believe that the Federal officers would not be so close to the people. They would not have the influence over them and their decisions would not be accepted so readily when adverse to the public, and I have confidence in the officers of a State in all questions being controlled by their judgment as to what is equitable and just.

The CHAIRMAN. Then, assuming that the original commissions should not be created with a view to exercising the jurisdiction that is now possessed in any degree by the State commissions, would you regard it as possible to have regional commissions that would have jurisdiction only over interstate matters?

Mr. BRISTOW. I think that would be desirable. I think it would avoid mistakes by the Interstate Commerce Commission if there was a local tribunal in a region where there was a local commission, that was more familiar with conditions there, and that these mistakes that I have narrated as to the 2.6-mile rate in southern Kansas would not occur, because that comes from a lack of comprehension of the conditions there on the part of the Interstate Commerce Commission, due to the overwhelming character of its work, it can not give that close detailed attention to these cases that is necessary in order to avoid such errors. Now, a regional commission familiar with interstate matters there in that vicinity, I think, would be an improvement over the present system.

The CHAIRMAN. Assuming that such a system were adopted, how many regional commissioners would you have? Take, for instance, your own region, how large should the region embracing that State be?

Mr. BRISTOW. Well, as a rule, it ought not to embrace more than from two to five States. I think the region ought to embrace States where the physical conditions and industrial and commercial conditions are somewhat similar.

Senator NEWLANDS. Now, if you were to select in your neighborhood three States that would be in harmony in the particulars that you suggest, what States would you select in addition to Kansas?

Mr. BRISTOW. It is pretty hard to get three States exactly alike. Nebraska, Kansas, and Oklahoma are very similar. Probably Missouri, Arkansas, and Oklahoma would be more similar. Kansas and Nebraska are very similar, practically the same. Oklahoma has somewhat different conditions, and Missouri and Arkansas have different conditions than either of these three.

The CHAIRMAN. If you had a regional commission in your region of, say, five States, how many would you add to the State of Kansas, and what would they be?

Mr. BRISTOW. Well, I think I would take Iowa, Nebraska, Missouri, and Oklahoma.

The CHAIRMAN. What preference would you have as between a commission of five with jurisdiction over those five States and one of three, embracing Kansas and the two other States?

Mr. BRISTOW. I do not know as I would have much. I should think that a regional commission of three or five men could familiarize itself with the interstate traffic of those five States so as to be



familiar with it, and by a proper system of cooperation with the State commissions they could handle it nicely—very much better than it is handled at present. But the State commissions, in my opinion, are absolutely necessary to be preserved in all their functions.

I might say here that the National Association of Railway Commissioners have instructed the committee on legislation of that association to confer with a subcommittee appointed from the Interstate Commerce Commission with a view to devising a system of cooperation whereby these conflicts can be eliminated, and Chairman Hall of the Interstate Commerce Commission and, I think, Mr. Anderson and Mr. Clark have been suggested to meet a committee of five of the national association, and we are going to try to work out a system of cooperation that will be voluntary, and possibly we will recommend some legislation.

The CHAIRMAN. I think the Interstate Commerce Commission, in its recent report to Congress, has made recommendation as to legislation along that line.

Mr. BRISTOW. Yes, sir; it did not suggest the details of such legislation, but recommended that such legislation would be desirable, and the national association passed a similar resolution and appointed a committee to cooperate with the Interstate Commerce Commission. Of course, one fundamental difference is the question as to jurisdiction. The Interstate Commerce Commission, in the Illinois case, has undertaken to assume jurisdiction in which the States do not concur. We think that would be dangerous and wrong. Now, the courts will have to determine that. If the courts determine that, under the existing law, the Interstate Commerce Commission can, because of discrimination between rates, say, from Springfield, Ill., to East St. Louis, as affecting St. Louis, can change the rate from Chicago to Evanston or Peoria, or any place in northern Illinois, there is nothing left of the jurisdiction of the State commissions at all, and we think that Congress should give us power we have heretofore exercised. I do not know what the Supreme Court's opinion may be. We will know soon, and if such an opinion as has been expressed by the Interstate Commerce Commission is held valid, then the State commissioners will be before you gentlemen asking you for relief.

The CHAIRMAN. As it stands now, the purely State rates which affect injuriously interstate commerce are subject to condemnation by the Interstate Commerce Commission, are they not?

Mr. BRISTOW. Yes, sir.

The CHAIRMAN. You think that is a prejudicial condition of the law?

Mr. BRISTOW. I think so. I believe there ought to be some method by which the validity of the rates may be determined and the controversy between the State commissions and the Interstate Commerce Commission adjudicated, but I do not think the Interstate Commerce Commission should have authority to adjudicate it. It undertakes or assumes to exercise the authority and jurisdiction of the State commissions, and I do not think it ought to be permitted to do it.

The CHAIRMAN. As it is, the jurisdiction of the Interstate Commerce Commission is established in the courts—national courts organized in the respective districts and circuits—and by the Supreme Court of the United States, and also by a system of review over the decisions and judgments of the State tribunals, is it not?

Mr. BRISTOW. Yes, sir.

The CHAIRMAN. Has it ever occurred to you that something similar to that might be provided for with reference to interstate rates and the regulation of commerce?

Mr. BRISTOW. I might not have understood just the significance of your question. A review of the United States courts over any action of the State courts is limited to Federal questions.

The CHAIRMAN. Federal questions, yes; and interstate commerce, of course, is a Federal question?

Mr. BRISTOW. Yes; and where there is an interstate question involved, of course the Federal courts would have jurisdiction, and ought to have, but our complaint is that the Interstate Commerce Commission has undertaken, by assuming what is known as the Shreveport doctrine, to eliminate all the rate making powers of the State commissions, and Judge Landis's decision was against that contention.

The CHAIRMAN. Can you suggest any method in regulation of commerce that would approximate the systems that now prevail with reference to the jurisdiction of the Federal questions by the Federal courts, and the reviewing of decisions of State courts that involve Federal questions?

Mr. BRISTOW. Well, I think the courts have gone about as far in that direction as there is any occasion for them to go, myself. I am a little apprehensive that it will go too far, and we will want legislation to limit the exercise of authority of the Interstate Commerce Commission over State matters. I think the Federal authority has gone very much further in the regulation of rates than they have in other local controversies. I know we had a decision of our Kansas Supreme Court in a case in which it held that the regulation of the gas companies was under the jurisdiction of the State commissions. The Federal court has decided it is interstate commerce and not under the jurisdiction of the State commission. That case is now in the Supreme Court, and it probably will be some months before it is heard.

The CHAIRMAN. You spoke of the value of local hearings and local decisions, and gave instances in Kansas as to these hearings, which were largely attended by people of the community, and that the tendency was to bring about a better understanding between the corporations and the public at large. As the result of the enlarged jurisdiction of your State commission under this system of hearings, is it evident that there is a better feeling between the communities and the railroads than formerly existed?

Mr. BRISTOW. Very much so. I have noticed—I have been on the commission nearly three years now and I have noticed a growing friendliness, I might say. That is, there is not that hostility and animus that existed years ago. We will have hearings in different communities, and sometimes in a year or so we will go back again with some other case. I remember at this moment, that we had a hearing at Hill City, Kans., involving the Union Pacific,

in regard to some train service, and there was a very large crowd at the courthouse where the hearing was held, and many of them were farmers. A banker, Mr. Mulaney, who was active in bringing the complaint against the railroads, and the general attorney for the Union Pacific, Mr. Blair, and a number of other officials of the company, were there. Mr. Mulaney said, "Mr. Blair, if I can be of any service to you to-day we will be glad to do it." Mr. Blair looked at the crowd and said, "I can not think of anything unless we need a bodyguard." Mr. Mulaney laughed and said, "I guess you will not need a bodyguard." We went through that hearing all day long, and I think there was a better feeling at the end of that hearing than before because the people understood the position of the railroads better, and the railroads understood the attitude of the people better.

The CHAIRMAN. The meeting took on the character of a town meeting?

Mr. BRISTOW. Very much. The citizens there respectfully listened to the railroads. They furnish the company thousands of tons of traffic every year. The company furnishes them a transportation that is absolutely essential. They could not exist without it. Without it their country would be a desert. There is a mutual interest, and they have been at arm's length before, and there has been great hostility in some sections. That will not be removed if the attitude of the company is such that the people think it is not just. But they get the point of view of the railroads and they see it from the railroad's point of view, and they are quite discriminating, and, as a practical matter, it has resulted in a better feeling. I know that, and I do not think there is an operating officer in our State who has attended the hearings who will not say that.

The CHAIRMAN. You spoke of waterways. You believe that they ought to be developed?

Mr. BRISTOW. Yes; I think so.

The CHAIRMAN. You believe that it is a mistake that that development has been obstructed or delayed in the past?

Mr. BRISTOW. I think it is a very great calamity.

The CHAIRMAN. Have you any doubt at all if the waterway development had been adequate that we would have escaped this congestion that now exists?

Mr. BRISTOW. I think it would very greatly relieve it. There probably would be more or less congestion at times, but it would certainly give us an agency that we do not have now, and it would certainly very greatly relieve it. But, Senator, you may pour all the money you please into rivers and harbors, if you let the existing rate system prevail it will be of no account. A hundred million dollars have been put into the Mississippi River, but what have you got? You would have the benefit of it if it were not for the selfishness that is inherent in the operation of railroads as private money-making concerns, competing with each other and with everybody else.

The CHAIRMAN. Do you not think that motive has now disappeared? Of course, these railroads, when in a pioneer state, and reaching out into country which was not populated but which it had to populate, and eager for traffic, that they pursued this policy of killing off water competition; but that now, as the country is populated and the



business of these railroads seems to equal the facilities of the railroads, that the motive for that kind of competition has disappeared?

Mr. BRISTOW. I do not think so. I think it is as strong as it ever was.

The CHAIRMAN. You think legislation is necessary on that subject? What legislation would you suggest?

Senator CUMMINS. A rigid long-and-short-haul clause.

Mr. BRISTOW. That would help it.

The CHAIRMAN. Would that be all that is necessary?

Mr. BRISTOW. No, sir.

The CHAIRMAN. What else?

Mr. BRISTOW. I do not know whether this would do it or not, but gives the Interstate Commerce Commission the power to fix minimum rates, and a declaration that water competition should not be considered as a factor in making rail rates. That, in connection with a rigid long-and-short-haul clause, would probably cure a great deal of the evil.

The CHAIRMAN. What do the railroads do now in order to destroy water competition?

Mr. BRISTOW. Lower rates between competing points. I do not know what the rate is on baled cotton between Memphis and New Orleans now, but I am very confident that it is very much lower than it is between points not on the river, for an equal distance.

The CHAIRMAN. Now, you are aware that there are very many people who think that the railway development is much better adapted to the needs of the country than river development, and can meet all the needs of the country, and for that reason there has been a considerable apathy regarding the development of the Mississippi River and its tributaries for the purpose of navigation. Does that feeling now exist, if you know, in that region, or is there a decided feeling in favor of the development of our rivers not only for navigation but for other very useful purposes?

Mr. BRISTOW. It is pretty hard for me to answer that question. I think there is a desire for the development of water transportation. Of course, it will not be used in the movement of a great deal of the traffic, because it is slow, but it can be used to move a large quantity of the bulky traffic which can be moved that way at a less cost than by rail, and water transportation should be used for that purpose.

The CHAIRMAN. The congestion of the railroads is due largely to the congestion caused by the bulky traffic and traffic that does not bear as high rates as more valuable products?

Mr. BRISTOW. I think that is true to a considerable extent.

The CHAIRMAN. That is all.

Senator CUMMINS. Mr. Bristow, are you a lawyer?

Mr. BRISTOW. No, sir; I am sorry to say I am not.

Senator CUMMINS. I assume, then, that you have absorbed a great deal of legal learning, as evidently you have; you have evidently given much study to this question from constitutional or legal point of view.

Mr. BRISTOW. No; not as a lawyer and a student of the Constitution of the United States. I have looked at it from the economic point of view.

Senator CUMMINS. I am referring now to the division of authority between the Federal Government and the State governments. You

have looked at it largely as though anything could be done in the matter that was wise to be done and have not surveyed closely the imitation of authority on the part of either Congress or the States?

Mr. BRISTOW. Well, I have heard a great deal of discussion in regard to the constitutional rights of the States and the constitutional powers of the Government on both sides of it. I have heard Mr. Thom deliver a very able and eloquent statement of his views on this matter.

Senator CUMMINS. I will lead up to the practical side of it, but I must lay the foundation first. Congress has constitutional authority to regulate commerce among the States, and for the moment we will think of that alone. That is the only authority which we have. You understand, of course, that Congress can not delegate its authority over any subject or any part of any subject to the States. You recognize that as a fundamental principle of the Government?

Mr. BRISTOW. Oh, yes.

Senator CUMMINS. It is also true, however, that with regard to certain things, if Congress does not exercise its full powers, the States can occupy the field until Congress does, provided they do nothing that is repugnant to or in conflict with what the General Government has already done.

Now, just bearing those rather elemental principles in mind, and one other, namely, that some part of this unoccupied field can be occupied by the States until Congress acts, and other parts have to be cleared away by congressional action in order to be unoccupied, how are we going to leave the States in the possession of the functions so far as the control of railways is concerned, that they have heretofore performed?

Mr. BRISTOW. That is, if the courts should hold that charging 2 cents a mile—I will see if I get your idea—from Peoria to Chicago was a discrimination and affected interstate commerce, from Springfield to East St. Louis and was discriminatory as against St. Louis, Mo., if the court should so hold in its decision, I infer that you think that Congress then would have no authority to leave with the States the rights which they have heretofore exercised and have believed they had the constitutional right to exercise?

Senator CUMMINS. I am groping for an answer to that question without expressing an opinion of my own.

Mr. BRISTOW. I can not answer that question because I am not a lawyer with that profound knowledge of legal principles that is necessary to answer it.

Senator CUMMINS. Suppose in the Kansas case the Interstate Commerce Commission or the courts, if it finally reaches them, shall hold that the performance of the passenger service required by the public is worth more than 2 cents a mile, and that the effort of Kansas to compel the railways to perform the service for 2 cents a mile, impaired their ability to fully carry out their duty as carriers—there are infinite ramifications to it—suppose they should hold that to allow a State commission to require an overhead crossing upon a railway interfered with the ability of the carrier to carry on its interstate traffic—and so I might instance everything that the State commissions have heretofore done, because they can be connected in some fashion or other either directly or indirectly with the financial ability

or the physical ability of the railways to operate as interstate carriers—what are we going to with that situation?

Mr. BRISTOW. If the Supreme Court of the United States holds that theory is correct, I think it is exceedingly unfortunate. I understand that that is the theory of Mr. Thom's argument which he has presented. If the Supreme Court of the United States holds that such action interferes with interstate commerce, I do not know whether Congress can remedy it or not; but if it can do it, it ought to.

Senator CUMMINS. That brings me to a practical situation. Every practical man can see the tendency of the courts in that respect, and no human being can predict in advance whether a particular exercise of power on the part of the States will be respected or not. That depends upon the view of the Federal court which finally sits upon the matter. The practical thing is, now, what kind of legislation will be best adapted to meet the situation, and that is what we must answer, and that is all we are sitting here for, to know what additional laws we should pass, if any, in order to institute the best possible system of regulating rail carriers. Now, are you in favor of Congress passing a law that shall declare that in certain things the States may, until Congress further acts, continue to enforce their laws and to control carriers that are within their limits, or are you in favor of doing nothing upon that subject?

Mr. BRISTOW. That will depend, Senator, somewhat on what these court decisions are.

Senator CUMMINS. We can not wait for the court's decision; that is to say, we have some matters we must act upon at once. We have to exercise our best judgment in regard to those matters.

Mr. BRISTOW. I think we ought to have such a declaration from Congress, leaving the jurisdiction which we have indicated ought to exist there with the States. I think it can be better exercised by the States.

Senator CUMMINS. To be again practical, suppose that we are dealing with the rate-making powers of the several States over traffic that begins and ends in a State. What ought we to say with regard to the power of the States in that respect?

Mr. BRISTOW. I can tell you, Senator, what I think to be ought done. Now, what language should be used, of course, I could not state without a great deal of thought and consultation with lawyers of experience in framing statutes. I think that the functions that have heretofore been exercised by the States in controlling local affairs and in controlling local rates should remain with the States, and that the carriers are amply protected from any injustice by the legal protection that they have, the same as all other property has within the State, and experience has demonstrated that the State courts will amply protect the carriers, and in Federal cases that the Federal courts do.

Senator CUMMINS. Well, I am not quite clear about your answer. Do you think we ought to say that the rate on traffic originating in a State and ending in a State, fixed by the State authority, should, in every instance, be free from Federal control?

Mr. BRISTOW. Well, I would not say in every instance. There might be instances where the courts—I think that a State court ought to pass upon that first, with the right of appeal from the State court to the Federal court. I believe that the jurisdiction of the



local courts should be preserved over local affairs in State matters—that is, a State rate—and it seems to me with the protection of the State courts the State would be amply protected, and with the right of appeal on questions affecting interstate commerce, being a Federal affair, that the carriers would have the United States courts open to them in the event the local courts were not, in their judgment, just.

Senator CUMMINS. I am basing my question upon the hypothesis that the Federal courts have already decided that there are some rates on traffic moving entirely within a State that can be controlled by the Federal authority. Now, if you tried to relieve that traffic of Federal control, we have got to use some definition of the rule which shall be applied to it, and that has been one of my great difficulties in trying to reach any rule that could be announced that will leave the traffic which you have in mind wholly within the power of that State, and subject the traffic that ought to come within the jurisdiction of the Federal Government, to its control. I confess that I am very much perplexed about any legislation upon that subject. I do not know how to compose it.

Mr. BRISTOW. Senator, I think you know that if it is difficult for you to phrase an act that meets that point, that it would be very much more difficult for me to do it, because you are a lawyer of distinction as well as of riper years in the public service than I, but it seems to me a provision could be made. The Interstate Commerce Commission probably, if the case were brought before it, would decide as it did in the Illinois case and the Shreveport case, that the 2-cent rate from Kansas City, Kans., to Topeka, and the 2.4-cent rate from Kansas City, Mo., to Topeka was a discrimination in favor of Kansas City, Kans., as against Kansas City, Mo. Now, we will reverse the claim that the rate from Topeka to Kansas City, Mo., of 2.4 cents against the rate from Topeka to Kansas City, Kans., of 2 cents is a discrimination against Topeka on traffic to Kansas City, Mo. Unfortunately, the carriers can get their claim of discrimination, whatever the attitude of the Interstate Commerce Commission, in court and have it tried out, but we can not get our case before the courts to be tried out.

Senator CUMMINS. I called your attention to that as you went along. That is largely a matter of providing a remedy. Assuming that it is the law—I am not certain that it is—that the commission, and the courts after the commission, will hold that a rate of 2.4 cents per mile out through Kansas, from Kansas City, Mo., is inconsistent with a rate of 2 cents per mile from Kansas City, Kans., out through the same territory, do you think that we ought to try to pass legislation that will take that jurisdiction away from the Interstate Commerce Commission and from the Federal authority and leave it with the State to determine what the rate from Kansas City, Kans., shall be, even though it is not in harmony with the rate from its sister city?

Mr. BRISTOW. I think so. I do not think the Interstate Commerce Commission ought to set that aside. I think that the courts that pass on the reasonableness of that rate ought to pass on it, and not the Interstate Commerce Commission, and if that is a reasonable rate, the people of Kansas traveling from Kansas City, Kans., to some point out in the State ought to have it. If it is not a

reasonable rate, the courts will set it aside, and the Kansas Commission will be compelled to fix a rate that is reasonable.

Senator CUMMINS. You think if the rate established by the State authority is, in itself, reasonable for the service rendered, that it is not legally possible for it to be a discriminating rate?

Mr. BRISTOW. No; I do not.

Senator CUMMINS. Then one of the things you want, I take it, is to find some way that the people of Kansas or some authority in Kansas can take the opinion of the courts on that subject——

Mr. BRISTOW. Yes, sir.

Senator CUMMINS. If it shall be decided against you by the Interstate Commerce Commission?

Mr. BRISTOW. Yes, sir. Yes, indeed. I think that is a fundamental right that the constituted authorities in Kansas ought to have. I think it is necessary.

Senator CUMMINS. I can see with reasonable clearness how things of that kind can be managed, but what I can not see and have not been able to see yet, is how the Federal Government can divide its authority with the State governments, assuming now that it is finally settled that the power to regulate commerce does extend to State rates, and other things that concern railways within a State.

Mr. BRISTOW. Now, Senator Cummins, if the authorities in Kansas can try out the reasonableness of their rates, I think the State rates ought to be tried out in the State courts, and if the courts sustain the commission as to this 2-cent rate, we will say, and find upon all the evidence submitted that it is reasonable compensation for the service rendered—and they are deciding reasonable compensation now and not confiscatory rates, because the tendency is that way by the courts—our courts are required to pass upon the reasonableness of the rates under the statutes. If the State authorities have the power to enforce a rate that is found to be reasonable, then the Interstate Commerce Commission can not take this function of the States from them. I have no doubt but that if the authority and functions of these two governmental agencies were clearly defined, that all these differences would soon disappear.

Senator CUMMINS. Well, I can see a very clear difference, however, between the adjustment of difference in a conciliatory and amicable way and the attempt to prescribe, on the part of Congress, an authority that may be exercised for the States, if that authority is the regulation of commerce among the States.

Mr. BRISTOW. I see your point, and I am not able now to suggest the phraseology of a statute that would confer it. I do not think it would be necessary if the States were protected as I have suggested. The controversy that has grown up between the Interstate Commerce Commission and the States, in most States, is simply because the Interstate Commerce Commission undertakes to fix State rates. In Nebraska, for instance, in the Nebraska case, they set aside the Nebraska order of the commission and prescribed rates which the Interstate Commerce Commission thought were reasonable, that were State rates, and if they can do that, why, then there is nothing left of the State commissioners, as far as rate making is concerned, and would be a very unfortunate situation. If they can not do that, then time will solve the other questions without any serious difficulties, in my judgment.

The Texas matters—I am not very familiar with that situation—but the controversy there was such that perhaps both parties took positions that were not tenable, and at the same time, from the viewpoint of each party, there were strong grounds for the position they took. But if the States are protected, as I have suggested, by having the right to carry their controversies with the carriers to their own courts, and if a Federal question is involved, let the Federal courts overturn the decisions of the State courts, as they do in other matters, I think the difficulty is solved.

Senator CUMMINS. No matter how we exercise our regulation, whether through a Federal incorporation, or whether through State corporations, as far as the point I am now discussing is concerned, I think there is no difference between our powers in either case. I think it would be practically impossible to recite certain things that the States might do, for, if they were regulations of interstate commerce, then we ought to do the regulating. If they were not interstate commerce, then we have nothing whatever to do with the subject. So, I have not been able to see how we could limit the authority of the Federal Government and the State governments in any statutory enactment.

Mr. BRISTOW. Do you think it would be impossible to provide that controversies in regard to intrastate rates and service should be tried out in the State courts?

Senator CUMMINS. The difficulty is that a statement of that kind rather assumes the very point in controversy. First, as to State rates. If it is a State rate in the proper sense of the term, then we have no authority over it at all. If by reason of its relation to, or association with, an interstate rate, or interstate affairs, it affects interstate commerce, then we have sole authority, and unfortunately it is a judicial question instead of a legislative one. We can not determine what is or what is not interstate commerce. That is, we can not determine it so that our determination is binding on the courts, I suppose. But I leave that a moment. I simply have suggested these things, because I want you to have in mind the immense difficulty that confronts us when we attempt to legislate upon that particular phrase of the matter.

I come to your suggestion with regard to the ownership of railroads by the Government. I perfectly agree with you in regard to the great desirability of eliminating, as far as possible, the element of profit in public business of this character. You, however, have suggested that there should be organized a bureau of railway control, no matter what name it is given, and that the securities that now exist be exchanged, in so far as possible, for new securities, to be issued by a new department of the Government, and that, in that way private ownership be eliminated. You do not think, do you, that we ought to preserve all the railway companies that now exist in this country?

Mr. BRISTOW. Oh, no; they would be gradually eliminated.

Senator CUMMINS. You do not mean that what might be called Government stock should be stock in any particular railroad?

Mr. BRISTOW. No; stock in the entire system—nationalize the entire system.

Senator CUMMINS. And, imagining the process you have outlined to be complete, then all the railways of the country would be elimi-



nated, and their securities on stocks all retired, and they would be represented by stock that had been taken by the people of the country to either exchange or to furnish the money necessary to buy what was not exchanged?

Mr. BRISTOW. Yes, that is right.

Senator CUMMINS. I think you said, also, that the stock that was thus put out by the Government bureau should have no voting power.

Mr. BRISTOW. It should not.

Senator CUMMINS. No power of control?

Mr. BRISTOW. None whatever.

Senator CUMMINS. In answer to a question put by Senator Newlands, I rather thought that you probably misunderstood him, or I misunderstood your answer. Did you not mean to say that after this exchange was completed, that the Government should continue these properties in the hands of the men who now control them?

Mr. BRISTOW. Well, I understood Senator Newlands to refer to operating officers. I would make no change in the operating officers except as ultimately became necessary. But the change in the ownership would be simply a change of stock. The reorganization would be simply a development.

Senator CUMMINS. You did not mean to say that the present officers should be retained at the present standard of compensation, which might be too high or too low?

Mr. BRISTOW. No, sir.

Senator CUMMINS. You mean that the bureau should employ the men who were necessary to operate these properties and that naturally they would select the men who were familiar with them to the extent of completely operating them.

Mr. BRISTOW. Yes, and by a gradual process would eliminate the surplus and unnecessary and expensive ones, but this process should be gradual so as not to disturb the normal business operations of the country. It should be done gradually.

Senator CUMMINS. But all the managing officers would be appointed by the Government?

Mr. BRISTOW. No; not by the Government, but by some agency created by the Government, of course, but not direct by Federal officials.

Senator CUMMINS. I can not quite distinguish between the employment by an agency created by the Government that is entirely public in its character, and that has no personal interest in the operation of the property, and the employment by the Government itself.

Mr. BRISTOW. There is a distinction.

Senator CUMMINS. It might be a very good way to avoid political interferences. I can see that is in your mind, but it nevertheless would be an appointment by the power of the law instead of by the authority of the owners of the property.

Mr. BRISTOW. That is true; yes, in that broad sense. I referred, of course, to the Panama Railroad. The Secretary of War, who is custodian of the stock, has never had anything to do and never has undertaken to have anything to do with the appointment of employees.

Senator CUMMINS. That is a mere forbearance on his part. The Government of the United States is owner of all the stock of the Panama Railroad and the Secretary of War is the officer of the Gov-

ernment who has custody of the stock. Now, at any meeting of that corporation, the Secretary of War can select just such directors as he pleases, and he can appoint such officers as he pleases to operate the road.

Mr. BRISTOW. That is true. I would not recommend that system at all, because it would grow into an evil. I would take a board appointed by the President and confirmed by the Senate, for a long period of time, and removable only for cause, and give them the authority, so as to remove it as far as possible from any probability of political disturbances.

Senator CUMMINS. I quite agree with that. No matter whether it is a board of a single individual, but after these managers are selected or perpetuated, as the case may be, they would employ the men necessary to operate the property.

Mr. BRISTOW. I think they would select the general officers. The general officers would employ the men just as they do now.

Senator CUMMINS. The evil of Government operation, which you have recognized, is the influence that the men who earn their livelihood in the operation of the property might have over the Government.

Mr. BRISTOW. In a sense, yes.

Senator CUMMINS. But under the system that you have suggested all the employees would be, in fact, if not in form, employees of the Government, would they not?

Mr. BRISTOW. Indirectly, yes; but if you should take it far enough away and make it so indirect that party politics will not operate in it—

Senator CUMMINS. Suppose there was a movement among the men for an increase of their wages, and they saw fit to forward the movement by a participation in the elections and reached the conclusion that they would not elect a president or Members of Congress who were not favorable to their contentions? Their influence would still be very powerful, would it not?

Mr. BRISTOW. Not more powerful than it is now. I think it would lessen the danger, because the Interstate Commerce Commission—while I think this board should be still further removed from party influence than the Interstate Commerce Commission—has been fairly free from political influence and there has been very little criticism of any political action by that commission—

Senator CUMMINS. But all the employees of the Government are, in one way or another, quite active in trying to enlarge or increase their compensation.

Mr. BRISTOW. They are now, and becoming more so. The Federal employees here in Washington are organized quite extensively. That is a danger that exists in all republics. It has been pointed out by some of the greatest economic writers we have had as one of the dangers of a government like ours. In order to counteract that you must have a selfish interest somewhere else that has potential political influence. Now, if the stock of this corporation is owned by the people of the United States, any undue increase in the wages of these men will decrease the dividends paid to the stockholders, and they would exercise their influence with the Members of Congress against it, and then the shippers who, if the dividends of the stockholders were not increased, or the wages of the men would have to bear the

burdens, are organized, to a certain extent, and if the demands of the operating employers or owners were unjust I think under a system such as I have suggested you would find a counteracting influence in the body politic that would stop it.

Senator CUMMINS. I think you would also, but the difficulty would be among those who must ultimately pay whatever increases are permitted, but I am not arguing against Government operation, although I come to it very reluctantly, if I ever do come to it, although I am thoroughly in favor of Government ownership. The point I am trying to bring out is this: The shareholders' interest in the matter would be limited to the difference between 4 per cent and 6 per cent?

Mr. BRISTOW. Yes, sir.

Senator CUMMINS. But the shippers who must ultimately pay, and really they constitute the entire population, because whatever the immediate shipper pays, he passes on—

Mr. BRISTOW. Yes.

Senator CUMMINS. It is that element in society that would constitute the counterbalance as against the interests of the employees to be always advancing in their wages, and you think that between the two there could be a fair counterpoise?

Mr. BRISTOW. I think so, Senator. I think that is a better system than the existing system, or any that has been constructed that I have any knowledge of. I believe that the American people are rather generous to employees who labor, and that the employees themselves would be in no danger of having their wages fixed at an unreasonably low figure. I think that there is a tendency among the people to pay high wages, and they encourage high wages, but the encouragement would not be so great, in my judgment, under an organization of this kind as it is now. In the minds of the public the railroad, are owned by some people in New York who are very rich, and when employees demand increases in wages the general public are rather anxious that they get it, and they do not think so much of the merits of the demand as they do of those interested. In the public mind, "Here are the railroads and these stockholders, rich men in New York, that have made millions of dollars out of watered stock—let them pay what the employees want." There is a great deal of that sentiment. I would not say it is the prevailing sentiment, but it is quite general throughout the country.

Senator CUMMINS. Is there any difference in your suggestion that the ownership of this property should be represented in stock such as you have described, and an ownership represented in Government bonds, except their latitude in the payment of dividends upon the stocks?

Mr. BRISTOW. I think there is a great difference, Senator.

Senator CUMMINS. What is the difference?

Mr. BRISTOW. A Government bond is an obligation of the Government of the United States. Its security depends upon the taxing power of the Government of the United States, and the stock which I indicate is an obligation of the railway systems of the United States, and its stability depends upon the operation of the railway and the charges imposed on the people for the traffic that that railroad handles.

Senator CUMMINS. There is a guarantee that you propose.



Mr. BRISTOW. That guarantee is made good by the requirement of the Government that the Interstate Commerce Commission shall fix rates that shall meet these demands, not that the Government will take any money out of the Treasury at all.

Senator CUMMINS. Suppose the Interstate Commerce Commission does not do that. Suppose the revenues of the railroads were not sufficient; then the Government would have to make good the guarantee.

Mr. BRISTOW. No, sir; I am not in favor of the Government guaranteeing anything. If the Interstate Commerce Commission did not do it, there should be some means by which it could be compelled to do it, and in the interim, if such controversy should exist, which I think is remote, this railroad system should be able to go out and secure the money which it needed.

Senator CUMMINS. It would not matter whether the Government issued stocks or bonds, it would be expected to make the service pay the costs of the service, and either interest on bonds or dividends on stocks. If you are going to recommend this to the people of the country so they will take stock at a low rate, I do not see very much difference between saying to them, "We will make it assured that the rates shall be such as will pay 4 per cent dividends on the stocks," and saying to them, "We will make it assured that the rates shall be such that they shall pay 4 per cent interest on the bonds."

Mr. BRISTOW. There is a very radical and, I think, vital distinction between the two propositions. The credit of a government is the same as the credit of anything else. I believe that the obligations of this railroad corporation, organized as it would be independent of any Government aid, so far as taxation or contribution of money is concerned, that its securities would command as low a rate of interest in the markets as the bonds of the United States Government. In fact, if properly managed, it would be better. The bonds of a government vary with the fortunes of that government. The bonds of the United States have sold at as high as 12 per cent, and they may again, but the obligations of the transportation systems of the United States, upon which depend the existence of the people, and with its vast property behind it, and its power of taxation, which is as vital as life itself to the commerce of the country is strong enough and good enough, and I would rather have it, free from political interference of any kind, than the bonds of the United States.

Senator CUMMINS. I do not bother myself much with the form, and if the Government of the United States makes the people of the country understand that they shall have dividends on the stocks or interest on the bonds, that the Government is sure to get the money necessary to pay dividends.

Mr. BRISTOW. The Government does not get it, but the corporation gets it.

Senator CUMMINS. I do not think much of the corporation, because a corporation which has no other power than that which it derives from the Government, the owners of which or the stockholders of it, have no voice whatever in its control and operation, that to me is rather an artificial affair, but I agree that any obligation, whether it is the guaranty of dividends, or whether it is in the form of a bond, behind which is the operation of a great railway system is a better

obligation than the ordinary promise to pay, which is supported only by the power of taxation.

Mr. BRISTOW. That is my idea.

Senator CUMMINS. There is no doubt about that. But when the Government takes these railways, if our Constitution is still preserved—and it seems now to be in some danger—it can not say to the railroads or to the stockholders that, “We will give you 4 per cent stock or 4 per cent bonds, or a 6 per cent stock or a 6 per cent bond.” It has to proceed according to the Constitution, and when it takes somebody else’s property it has to pay its value, and it has to pay it in money. We would have no authority to say that we will take the railroads of this country, and we will give to those who now own these substitute securities, whether they are bonds, or whether they are stocks. Now, that is the difficulty about that suggestion.

Mr. BRISTOW. Now, that, of course, suggests the probability that the owners of these railroads would not be willing to exchange their holdings at the market value for holdings in a corporation that will own all of them, and where there is a guarantee that the revenues shall be from 4 to 6 per cent. I say from 4 to 6. Those are arbitrary terms. You can make it 5 to 7 or 3 to 5, or whatever may be thought sufficient to attract capital. I think from 4 to 6 will do it. If 4 to 6 is not enough, make it 5 to 7, as a return.

Now, I believe that the railroad investors in the United States would be glad to make such an exchange. If they would not make it, I think there are enough of them to start the system, and if it is started it will go through, I think, without any doubt.

Senator CUMMINS. The only practical way, however, in order to make the transfer of ownership certain, as to institute the equivalent of a condemnation proceedings; ascertain the value of the railroads or the property taken and be ready to pay that value in money. Do you believe that you could raise the money or the Government could raise the money necessary to pay whatever condemnation was awarded, through the sale of stocks, such as described?

Mr. BRISTOW. I think it could, through the exchange, if the rates are fixed so they are attractive. There is a practical side. I think that this commission can be empowered to do this, that it can soon find out whether it could make this exchange or not by contracting with the holders of these securities. You authorize a company to construct a railroad, and they can issue \$2,000,000 worth of securities with which to get the money to construct it. They may not have much money themselves, but they will go out and contract with investors, and the investors will say, “I will take some of the stock,” and they know what they can do before they start the railroad. I think this difficulty which can be overcome by fixing the rates which would be attractive to the investors in securities of that kind. Now, it might be that the popular opinion as to the Government’s reliability is such, that in order to make it go, you would have to have the guarantee of the Government itself behind it, but I think that would be dangerous, and I do not think it is necessary, because I think, as a matter of fact, that it will not be many years before investors in this country will be seeking other securities than Government bonds and paying more for them than Government bonds.

Senator CUMMINS. I will put this concrete illustration to you as an incident in your own territory. I am quoting from memory, but

I do not think I am very inaccurate. In 1916 the Atchison, Topeka & Santa Fe Railroad Co. earned 29 per cent upon its capital stock, net earnings. I am taking net earnings applicable to the payment of dividends after paying interest upon bonds. Now, you take a certificate of stock from one of the holders of the stock of a company whose dividend is limited to 6 per cent and may be reduced to 4, do you think he would exchange his stock for this stock?

Mr. BRISTOW. I think they would. I remember when the Santa Fe stock sold for 8.

Senator CUMMINS. I am speaking of its present situation.

Mr. BRISTOW. Now it is selling for over 100. It sold for 104, as I remember it. The vacillation of a railroad's stocks under the existing system has been exceedingly great, as you know. The Rock Island went from 200 down to 10.

Senator CUMMINS. There are those vicissitudes. I do not intend to convey the idea that the Santa Fe declared a dividend of 28 per cent, but that is what the company earned.

Mr. BRISTOW. I do not know the figures, but I know it earned a great deal more than the dividends declared by it. I do not have any doubt but that the railroads of the United States, merged under a national supervision into one compact whole, eliminating all possibility of exploitation and speculation that have been the curse of American railways from the beginning, and with a declaration of the Government of the United States that the revenues derived from the operation of these railroads shall pay operating expenses, maintain the property, and pay a dividend of 5 or 6 or 7 per cent, as the case might be, and that the agencies of the Government will fix rates that will provide such returns that the railroad investors will be glad to exchange, and if they do not, why then, as a precaution it might be well to have some means of condemnation provided so it could be done if necessary. I think if you take the market value of the stocks through a period of years as a basis of acquiring that, you would have no difficulty such as anticipated.

Senator CUMMINS. But, Senator Bristow, the market value of the stock might be slightly influenced by the actual earnings of the company which issued them, but it is mainly influenced by the dividends which the company paid. Now, the stock of the Atchison, Topeka & Santa Fe Railroad, if it were very much influenced by the actual earnings, would rise immediately to four or five hundred.

Mr. BRISTOW. Not on the earnings of one year. The value of stock is influenced, of course, by dividends, and then it has some value if it does not pay any dividends. If the road is bonded for all it costs and all it is worth and still there is an outstanding stock, it has some market value. Take the Kansas City Southern. Under this system suggested the stockholders of that company would get a great deal more than the property is worth, and they know it.

Senator CUMMINS. I have made these inquiries because I am very strongly inclined toward your view that private ownership will probably be brought to an end, and ought to be, but I fear that if the change is not made until we can induce the present holders of railway securities to accept voluntarily the stock which you have proposed, it will be a very long time before private ownership will disappear.

Mr. BRISTOW. If this is true, then there ought to be incorporated in this a provision for condemning and taking the property.



Senator CUMMINS. That is all.

Mr. SIMS. It is now 6.30 o'clock, and Senator Bristow has been on the stand five and a half hours to-day. I have listened to everything he said, and it is about as hard to be a good listener as it is to speak, and I do not feel that I have the capacity, and I do not think it would be right, to afflict on him the burden of asking him to stay on the stand long enough to answer the questions which I wish to put to him. Can you return to-morrow, Senator?

Mr. BRISTOW. I am at your service.

Mr. SIMS. As the single representative of the House present, I desire to ask you a few questions in the morning.

The CHAIRMAN. Very well, we will take a recess until 10.30 o'clock to-morrow morning.

(Whereupon, at 6.35 o'clock p. m., an adjournment was taken until to-morrow, Wednesday, December 19, 1917, at 10.30 o'clock a. m.)



## INTERSTATE AND FOREIGN TRANSPORTATION.

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WEDNESDAY, DECEMBER 19, 1917.

CONGRESS OF THE UNITED STATES,  
JOINT COMMITTEE ON INTERSTATE COMMERCE,  
*Washington, D. C.*

The joint committee met at 10.30 o'clock a. m., pursuant to adjournment, Senator Francis G. Newlands presiding.

### STATEMENT OF MR. JOSEPH L. BRISTOW—Resumed.

MR. BRISTOW. Mr. Chairman, if I may make just a comment or two before I start in answering questions which Mr. Sims may propound, I wish to state that I referred yesterday to the tentative valuation submitted by the Division of Valuations of the Interstate Commerce Commission on the Kansas City Southern. I believe I stated that the case had been argued before the Interstate Commerce Commission by the carriers and the representatives of the States and the Division of Valuation. In that I was mistaken as to the Kansas City Southern. The argument was on the Texas Midland, a small railroad in Texas, but the principles involved, as to what elements of value should be included in a valuation were discussed, and in that connection I desire to say that in my opinion, from the study I have given the subject, the Division of Valuation headed by Judge Prouty, is doing a great work, and if the principles of valuation as outlined by Judge Prouty and his advisers are supported by the Interstate Commerce Commission, I think that their valuation will be the fairest that could be obtained of the railways of the United States. It will take some years before that is completed, and, as has been suggested by the chairman of this joint committee, things are moving rapidly, and Congress may not be able to wait for that. But I think if the division is sustained, that its valuation would be much fairer to the public than the average value of the stocks; that is, for rate-making purposes.

Now, when you consider all of the interests involved, the investors in railway securities, the investments having been made under conditions that now prevail, and the equities that may attach to those investments, of course, are considerations that you gentlemen would deal with that might not be considered in the question of rate making.

Mr. Thom last night, after the hearing had closed, asked me if this plan which I suggest for the acquiring of the railroads was to become effective, what would become—this was in substance his question—what would become of the State commissions, and I desire to state for the record, that I think it would be useful for the State commissions to be continued. The necessity for them to have as full author-



ity under a condition of that kind would not be so great as under the conditions that now prevail, because there would not be the selfishness and the opportunities for great profit in the exploiters or owners of these railroads as there is now, and there would not be the urgent need of protection of local communities against the exploitation or the unjust exactions as under present conditions. I think it is due the Federal authorities that there should be State organization, because it would prevent them from making many mistakes which they would otherwise make, and I think I referred yesterday to the fact that if the Interstate Commerce Commission had listened to or consulted with the Kansas commission in regard to the passenger-rate cases it would not have made what I regard as the ridiculous blunder it did in fixing a higher rate for southern Kansas than for northern Kansas, when there can not be any justification for it, and in arriving at that conclusion, not to have taken into consideration a road that carries 75 per cent of the traffic in that section.

If you gentlemen will permit, I wish to state that I received a copy of the last bulletin of the Kansas Public Utilities Commission, which is the December number, this morning, mailed me by the young man who gets it up and edits it. In this bulletin there is an editorial page where there is, as I stated yesterday, general comment on the traffic situation. If you will permit, I desire to read the comments on an article published in the Munsey Magazine by the compiler and editor of this bulletin. It is his own, and I think it is in good form, and I would like to make it a part of this record, that you gentlemen may understand it fully. It will not take a great deal of time, and I should like to read it.

#### MISLEADING THE PUBLIC.

From now until the Newlands committee makes its report to Congress and some legislative action is taken, State commissions will be the targets for the press agents of the railroads.

In fact a campaign has been under way for some time in an effort to so warp public opinion that it will sanction the destruction of State regulation. Newspapers and magazines subservient to the interests that demand "war profits" from the transportation industry are increasing their attacks on State railroad and utilities commissions. A great deal of misleading "stuff" is being printed and put before the public.

A fair sample may be found in the December issue of the Munsey Magazine. Under the heading "Hardships of our railroads," in an extended article, the railroads are pictured as held helpless and poverty stricken in the grasp of State regulation. No recognition is given the fact that the net revenues of the roads and the dividends paid stockholders in the last two years have been by far the greatest in the history of rail transportation.

Our American railroads are unwillingly wasting man power needed in the battle zone—

is the ingenious opening sentence of this article that would have the public believe that any restraint on railroad rates is incompatible with loyalty to the country in time of war.

They are employing thousands of men who could be spared without impairing the safety and efficiency of the roads.

Continuing, this magazine writer says:

Our railroads, then, are not merely wasting men. They are forced to waste millions of dollars in unnecessary expenses—dollars sorely needed for locomotives, cars, rails, and terminals.

Having thus assumed a serious state of affairs, he then attempts to fix the blame on State regulation, and concludes:

The responsibility does not lie with our railroads but with our lawmakers.

With these assumptions, he draws largely on his imagination for material to support his position that regulation is an unwarranted evil.

We quote portions of his pseudo proof.:

Another expensive fad is legislation in States like Kansas, Texas, and Oklahoma compelling all roads operating in these States to maintain general offices—

I want you to notice what this man says. This was in *Munsey's Magazine*, one of the leading articles:

Another expensive fad is legislation in States like Kansas, Texas, and Oklahoma compelling all roads operating in these States to maintain general offices within their boarders. Trunk lines running through these States, therefore, must duplicate their general offices in each. One railroad reports that in one of these extra offices alone it is forced to employ 150 clerks, otherwise unnecessary, and that the cost of maintaining the office is \$500,000 a year.

It is easy for a New York newspaper or magazine to take a shot at Kansas, and this is about as near the facts as they generally get.

There is no such law in the Kansas statutes as is outlined in the quotation, nor has there been. The proof of this is obvious to anyone with slight knowledge of railroads.

The Missouri Pacific crosses Kansas. Its offices are in Kansas City, Mo., and St. Louis, Mo.

Likewise the Union Pacific crosses the State from the east to the west. Its general offices for this territory are at Omaha, Nebr.

The Rock Island & Frisco furnish similar examples, both maintaining their general offices outside of the State.

The Missouri, Kansas & Texas maintains offices at Parsons, Kans., St. Louis, Mo., and Dallas, Tex.

The Santa Fe has maintained general offices at Topeka since the early history of the road.

As a matter of fact it has been so since the beginning of the road.

There is a statute requiring all corporations chartered under the Kansas law to maintain head offices in the State, but that applies to but two of the railroad companies mentioned.

Another statement equally erroneous follows:

Other offenders are the inspection regulations of the State commissions, which duplicate the work of the Interstate Commerce Commission.

There are 47 State commissions. Each employs its corps of inspectors to check up the operation of the roads within the State, and to see that all regulations for the safety of employees, passengers, and freight are faithfully observed. These are important functions, beyond question; but in every State the same work is being done throughout the same territory by the inspectors of the Interstate Commerce Commission. This means that if the inspection of railroads were left entirely in the hands of the Interstate Commerce Commission the work would be efficiently done, and the State commissions could release hundreds of expert railroad men."

In this sweeping assertion all State commissions are included. Nothing in it is true as to Kansas, however, nor to any other State so far as our information goes. The Kansas commission employs no inspectors and duplicated none of the inspection work of the Interstate Commerce Commission.

The last-quoted paragraphs, however, are outdone by two that follow them in the article. We quote them:

"This overlapping and unsystematic regulation is not only costing the States and the railroads unnecessary millions in inspections, in equipment, and in operators, but it requires of the railroads separate bookkeeping and separate reports for each State, besides the exhaustive returns submitted to the Interstate Commerce Commission. \* \* \*

"The cutting out of this duplication of reports would save at least \$20,000,000 a year, or the interest at 5 per cent on an invested capital of \$400,000,000. It would also release an army of men who have just the training needed in the Quartermaster Corps of our new Military Establishment."

We don't know where the writer got his figures; but apparently they came from his imagination. The Kansas commission—and the same applies to practically all the others, we believe—requires an annual report only of each railroad company. This report is largely a duplicate of the one made to the Interstate Commerce Commission, and contains in the main information that the directors of the companies would have gathered for their own benefit were it not required by the Government.

There is some expense attached to Government regulation of railroads. That is a fact. But the same is true of the maintenance of the National Congress, the Supreme Court, or any other part of the Governmental machinery.

It is not the purpose of this comment to undertake a defense of State regulation, however, but simply to point out the methods used to mislead the public mind by some of the exponents of the point of view that the railroads should be permitted to tax the public "all the traffic will bear."

The railroads are making a determined effort before the Newlands committee to have State regulation legislated out of existence. And they apparently recognize the advantage of getting public opinion behind them.

Outside of the question of railway regulation, it is a sad commentary on the integrity of the Nation's press when a magazine with a circulation of over 300,000 will permit such an erroneous and misleading article to appear between its covers as is "Hardships of our railroads."

A big, powerful magazine ought to have a directing conscience behind it that would scorn to mislead and should be edited with care that would bar from its pages the wild imaginings of ill-informed writers.

In looking over this this morning I observed this comment, and while it is made by a young man employed by the Kansas commission, and shows some resentment at the malice that is behind the article, and the writer responsible for it, yet I believe it is a good thing to incorporate in this record, and following is an article on the earnings of the principal roads operating in our State for the nine months of the present calendar year past, and I will just give the net operating revenues for the first nine months of 1917, and the increase over the similar period for the year 1916.

The Atchison, Topeka & Santa Fe, net operating revenue, in round numbers, \$37,525,000; increase, \$2,429,000.

The Chicago, Rock Island & Pacific, \$15,348,000; decrease, \$2,142,766.

The Missouri, Kansas & Texas lines, \$6,836,000; increase, \$2,501,000.

Missouri Pacific, \$15,510,000; increase, \$6,099,000.

The CHAIRMAN. What road is that?

Mr. BRISTOW. The Missouri Pacific. That is the most pleasant of all these reports which have come in, because this road, which has been the most decrepit in our State of any of the large lines seems to be coming out of its difficulties.

The St. Louis & San Francisco net operating revenue was \$14,835,000; increase, \$2,875,000; and the Union Pacific, \$36,898,000; increase, \$943,000.

Senator CUMMINS. When you speak of the increase, with what are those figures compared?

Mr. BRISTOW. With the same period of 1916.

The CHAIRMAN. Is the total of those figures given for that period?

Mr. BRISTOW. Yes; the total net revenue was \$126,055,000 and the total increase was \$10,707,000.

Mr. SIMS. For three quarters of the year?

Mr. BRISTOW. Yes, sir.

The CHAIRMAN. If you know, I wish you would state the rule of the Interstate Commerce Commission as to net operating income.

Mr. BRISTOW. The net operating revenue is that which is left after all expenses involving operation, maintenance, and taxes have been



paid. It is the money that is available for the payment of dividends and interest on securities.

The CHAIRMAN. It requires the deduction of every expenditure that is not properly chargeable to capital account on the railroad?

Mr. BRISTOW. Yes; it does. Mr. Chambers, the accountant of the commission, advises me that in some of the nets I have given you the taxes were not taken out of the figures for the roads, because they were not available. So, there would be some taxes to be taken out of the \$10,000,000, but what it is we do not know yet. I am very glad now to answer any questions you gentlemen might care to ask.

The CHAIRMAN. Will you let me see that publication?

Mr. BRISTOW. I shall be glad to.

The CHAIRMAN. This is a public utilities bulletin?

Mr. BRISTOW. Yes; published by the Public Utilities Commission for the State of Kansas.

Mr. SIMS. Senator Bristow, what public offices have you held prior to the one you are now holding?

Mr. BRISTOW. Well, the first public office I held was clerk of the district court at Douglas County, Kans., and some years after that I was appointed private secretary to Gov. E. M. Morrill when he was governor, and the next position I held was Fourth Assistant Postmaster General, which I held about 8 years. Then I was appointed by President Roosevelt as special commissioner of the Panama Railroad, which position I held almost a year. There were two periods of my work in connection with that position. I was afterwards elected to the Senate of the United States and served 6 years. At present I am chairman of the Kansas Utilities Commission.

Mr. SIMS. You are a member of the commission and chairman of it?

Mr. BRISTOW. Yes, sir.

Mr. SIMS. You spoke of taxation, Senator, and that whatever might take place with reference to the railroads in the future, you thought that for the present, at least, the properties of the railroads should remain subject to taxation as they are now in the several States.

Mr. BRISTOW. That is my judgment.

Mr. SIMS. That is your individual view about the matter?

Mr. BRISTOW. If you will permit, I desire to say, that in discussing the work of the State commissions and what they did and the importance of it, I not only voice my own judgment and the judgment of the Kansas commission, but I think the unanimous judgment of the railroad commissions of the United States. My statements as to the reorganization of the railroad systems of the country are my personal opinions and represent the opinion of no one else.

Mr. SIMS. Well, in the proposed reorganization or change of the ownership of the railroads, in the consolidations—I mean as to the shares of capital stock, etc.—you recommend that the shares of stocks should be the subject of State taxation.

Mr. BRISTOW. I would not change the existing condition as to taxation. Of course, Mr. Sims, in the establishing of a new system like this, time and experience will develop changes that will be desirable, but my judgment is, in the changing of such a tremendous industrial agent as the transportation facilities of these people in the United States, a nation of 100,000,000 people, the least disturbances

in the orderly operation of things the better it will be. Then, of course, experience will demonstrate what ultimate changes ought to be made.

MR. SIMS. Well, you made this suggestion, and of course it becomes a matter of pertinent inquiry as to what might grow out of it. Taxation of the stock of a corporation, in addition to taxing the physical property, has always seemed to me to be somewhat on a parity with taxing a man for the land he owns, and then taxing him on the deed by which he holds title to it.

MR. BRISTOW. I am inclined to agree with you there. Personally I do not think you ought to tax the property twice. Personally I do not think that the land ought to be taxed and then the mortgage.

MR. SIMS. I did not mean the mortgage. I am speaking of the title papers.

MR. BRISTOW. I go further than that. I think in all these cases the borrower pays the tax on the land and on the mortgage, too. The reasons I suggested in my answers to Senator Newland's interrogatories to the effect that I would leave the taxing power where it was and that I would not want to change existing conditions any more than was necessary.

MR. SIMS. Whether you think it wise to do so or not, you want to leave it to the State at least at the beginning of these experiments?

MR. BRISTOW. Yes, sir.

MR. SIMS. I only suggested that matter because my own State does that thing. It taxes the farm and taxes the mortgage on it, and if you have the deed registered it places a tax on the privilege of having a deed registered in proportion to the value of the land mentioned in the deed.

MR. BRISTOW. I think those taxes are duplications and unjust and that the man who borrows the money pays the bill, and he ought not to do it.

MR. SIMS. As a matter of fact, all the lender of the money has to pay in the way of taxes is on the instrument of security, the mortgage. He naturally adds it to the interest; in other words, the interest must be high enough to take care of that, and if that feature was not in there the competition among private lenders would bring the interest rate down.

MR. BRISTOW. Yes, sir.

MR. SIMS. Does not the inequality of taxation in the different States, or may it not, at least, be exercised in such a way as to amount almost to a discrimination in favor of the shippers of a particular State? In other words, if Tennessee should levy twice the amount of taxes on the same amount of railroad mileage or earnings as are levied in Kentucky for a like amount, would not that amount, in effect, to a discrimination in favor of the people of Tennessee? Suppose Tennessee is paying the same amount of passenger and freight fares as Kentucky, and it gets by increased taxation a large part of the earnings of the railroad companies that have to make those earnings in all of the States? Does not that amount, in effect, to a discrimination in favor of Tennessee?

MR. BRISTOW. It is possible that grave injustice might be done, but I do not think it is probable.

MR. SIMS. It does not often occur, if it occurs at all. I am only speaking of that possibility. I speak of it more on account of what I have seen in a very able discussion of this subject. The book I

have here in my hand is by Mr. Mark Wymond, and the title of the book is "Government Partnership in Railroads," and it was published I think, in 1917. He makes this statement about railway taxation by the States. He says, referring to the period of 1902-1913:

The railroad taxes in Michigan averaged practically 30 per cent of the railroad net earnings; for the whole United States the taxes were 10.3 per cent of the net earnings.

That is, the railroads were paying Michigan practically three times as great a proportion of net earnings as were the railroads of the United States, considered as a whole. Considering only the railroads which operated partly in Michigan and partly in other States, during the period 1909-1911, the taxes for the entire systems were 13.59 per cent of net earnings. Within the State of Michigan the taxes were 28.69 per cent of the net earnings, or more than twice that of the entire systems. He states those as a fact, and states the percentages used in this article were those given in an article entitled "Railway taxation in Michigan," by Prof. David Friday, professor of political economy and finance, University of Michigan. I do not know that that is true.

The CHAIRMAN. What are you reading from, Mr. Sims?

Mr. SIMS. Government Partnership in Railroads, by Mark Wymond. It is the most recent railroad publication I have seen.

Mr. BRISTOW. If it should appear that taxes were unjust, why the system could be corrected and modified so as to relieve that injustice. There are some assessments made by the States on the capital of railroads—that is, on stocks and bonds, where there are mortgages filed or increases of capitalization—that are onerous and burdensome. It has been referred to here in the Illinois case.

Mr. SIMS. And in the New York Central case.

Mr. BRISTOW. I have not heard it defended by anybody.

Mr. SIMS. They only pay that once?

Mr. BRISTOW. Yes, sir; and it is an insignificant thing as compared to the whole revenue of the road.

Mr. SIMS. But if one State exercises its power to tax to the extent of its powers and authority under its laws, it, of course, would make it almost necessary for every State through which a line runs to also exercise its full power of taxation, and if it does not make it necessary, it at least makes it desirable, so that there would not be discriminations which would operate in the nature of rebates. It has seemed to me that the proper way to tax so as not to do any injustice would be to tax the physical properties of the railroads located in the respective States, because the States give State protection, county protection, and municipal protection to the fixed property, but the mortgages and stocks floating around, mere incidents to the ownership attached to them, should not be taxed in my opinion by the States, because of the fact that they do not, as States, incur any burden or liability such as they are called upon to incur in the way of expenses, in reference to the fixed property.

Mr. BRISTOW. Have you ever examined into the matter as to the amount of railroad stocks and bonds that are actually taxed? Are there any statistics as to that?

Mr. SIMS. Not that I know of.

Mr. BRISTOW. I have wondered as a result of your inquiry, if there were any data which would indicate what actual abuses or burdens are imposed upon railroad securities by the taxing of those securities.



Mr. SIMS. I do not think it could be called an abuse, because the State only exercises its powers. It is like Kansas levying a certain amount on real estate and Nebraska doing the same thing, on the same kind of property. Both are operating within their limits. Of course, all expenses are indirectly or directly paid by the railroads out of earnings. There is some reason why there is such a divergence in State taxations for such railroads, and if it applies generally to securities, that might make a considerable difference; at least the railroad companies now are urging that. Those are parts of the arguments advanced here in favor of what you refer to. In order to avoid this, though, the railroad executives, in asking for legislation, have not asked that they be relieved of paying State and local taxation.

The CHAIRMAN. I will state, Senator Bristow, that a Senator representing a certain State told me there were almost no investments in that State in railway shares and bonds, because, under the laws of that State, they were subject to taxation, and for that reason only tax dodgers who would conceal the fact they held these securities, were likely to hold them as investments. I think that is an unfortunate condition.

Mr. BRISTOW. I agree to that. I know in our State mortgages are taxed, while in Missouri they are not, and our local money lenders do not lend money on farm mortgages because they can not afford it on account of the tax on the money being too high. Some have moved over into Missouri in order not to disturb the Kansas business. If that would operate to the extent that it would become a burden or an impediment to business, it should be corrected.

The CHAIRMAN. I understand your proposition is that the change should be as simple as possible and not disturb business, leaving certain subjects to be afterwards considered?

Mr. BRISTOW. I think that is very important.

Mr. SIMS. I suggested it as a possible solution in order to meet certain difficulties brought forward by railroad executives, in reference to credit. They claim their credit was impaired by the great number of State authorities being exercised, and the national authority, and the result was it was a very difficult thing to market bonds or stocks on that account. I suggested, as a possible solution, and asked them to give their own opinion on it—they were asking for every railroad in existence to be required, by law, to take out Federal charters, and of course the taking out of Federal charters was to give them some benefits under a Federal charter that they figure they could not get under State charters. To get rid of the objection to the appointment of operators of railroads by the General Government on account of political influences, that might interfere—and that is something that always comes up; in other words, we would not expect engineers and conductors and brakemen to be appointed on the recommendation of Senators or Representatives, etc.; they have always urged that the direct operation of the railroads by the Government would result in that kind of thing, and it might, although I have not seen it operated and do not know—but to avoid that sort of thing and leave the property of the railroad companies, their fixed property, subject to taxation by the States, counties, and municipalities, I asked them why not have one Federal corporation, and in order to give it good credit, that the Government, through the Interstate Commerce

Commission, should say how many bonds a particular company should issue, and that it would guarantee interest, not exceeding 4 per cent, on the issue of these bonds, the bonds to be free from all taxation, State and Federal, and with the money acquired by the railroads of the United States, upon a valuation fixed by the Interstate Commerce Commission—and in case that could not be agreed upon, then by condemnation, and to authorize a particular company, under the supervision of the Interstate Commerce Commission, to issue stock that might receive a dividend not in excess of 6 per cent, but without a Government guarantee, the Government to hold a first lien upon all property acquired, to secure it against loss by reason of guaranteeing the interest on bonds, the Government to appoint a certain number of directors, whatever they might think would be needed, and to operate all the railroads of the United States as one system, under one ownership, which, of course, would be a quasi-governmental corporation, the Government being interested as guarantor—that that would seem to eliminate the difficulty that would seem to loom up in the appointment of Government operators of railroads, general managers, superintendents, etc., and it seems to me that would give us unification of service, eliminating duplication of service, etc., and all money over and above what it took to pay interest on the bonds and dividends on the stock, should become a surplus fund for the purpose of new construction and new equipment and things of that sort. I suggested that simply as a possibility of solving the situation and removing one of the difficulties. I did not express myself as in favor of it. I have never yet expressed myself as in favor of or against Government ownership as such, or private ownership as such, but as a member of this committee, under this resolution, I feel it my duty to honestly and faithfully pursue the inquiry as to what is the best for this Nation now and in the future, as a whole. I was very much interested in what you stated yesterday in reference to your idea, and I wanted to make some inquiries, rather in the nature of cross-interrogatories on the general lines you have suggested.

You stated that you did not think that public taxation should be used for the purpose of paying for the railroads. I feel exactly like you do, especially in the first instance; that that should be done not only as a matter of possible convenience, for sound business reasons, and that we should have an association incorporated or created by Congress which should exist to do what you suggest. Of course, that stock has to be sold. If it has to be sold, and if it has to be sold without a Government guarantee of return on it, and has to be sold in the markets of the world, it will then meet the very same identical trouble that the railroad companies are now having in connection with floating their bonds; that is, they are coming in competition with stocks the world over, whereas, in the case of bonds, to the extent that bonds might be issued, if the returns are guaranteed, then the supposition is that not 4 per cent—because I made that proposition before the war—but the expense of underwriting the bonds and floating them, would be put out of the way, and they would get the money at the rate of 4 per cent, and the Government having a lien on the entire property, they would be absolutely protected as to the guaranteed obligations.

Mr. BRISTOW. Judge Sims, in the first place, the railroads are not having any difficulty in selling their securities, if they are good, any

more than any other concern, and never have had. The credit of the railroads in 1916 or 1917 is as good as anybody's if the railroad is run right. It may be that, under the campaign of defamation that they have conducted against their own financial responsibility they have injured their own credit by this deliberate propaganda. I do not know whether that is true, because I have not the data before me. They started out on the premise that their securities are weak and they could not obtain a market for them, because their earnings have been depleted by State regulation. Now, that premise was not true—neither of those premises was true—as their own reports demonstrate. Since they started out on a false premise, proven false by their reports to the Interstate Commerce Commission, I do not think we can base any argument upon those premises:

Mr. SIMS. Right there, they resort to another method to increase credit, that is, to increase the rates so that the impression created by this campaign will not have any effect.

Mr. BRISTOW. President Rea, of the Pennsylvania, which is the largest system in the United States, testified before the Interstate Commerce Commission week before last that they did not need any additional money to pay their obligations of interest and dividends, but they wanted increased rates for the purpose of acquiring capital.

Mr. SIMS. That is, for the purpose of crediting a market for capital obligations?

Mr. BRISTOW. No; for the purpose of acquiring capital to be expended for additional property which afterwards should be capitalized, and then, of course, interest collected on that.

Mr. SIMS. But ultimately to be converted into capital?

Mr. BRISTOW. Ultimately to be converted into capital; yes. He said they had been able to pay dividends and interest obligations and maintain the property, and in addition to that they have, in 10 years, out of earnings, put \$350,000,000 into capital expenditures. Now, on the face of that, we can not see that there is any pressing necessity for increased rates in order to sustain their credit. Of course he did say that if they could get these increased rates and mount up their earnings, that it would enable them to borrow money at a lower rate. That may be. The richer they are, presumably the lower rate of interest they would be able to obtain money at, because the greater would be the security, but that is, I think, going into a realm of exploitation that the American people will not submit to at all, and indeed, if I may be permitted to make the suggestion, I think that the sentiment that has grown up almost universally for the President to take over the railroads, has grown up from statements made by Mr. Rea and others as to the money they want and why they want it. The people will not stand for that, and I do not think they ought to.

Mr. SIMS. You think the credit of the railroads have been injured by the campaign they have been making through the public press and otherwise?

Mr. BRISTOW. I would not want to say it had, because I would want to know, and I would want a comparison of the earnings of the railway securities during 1917, just as I presented to you yesterday, from the years 1890 up to and including 1916. It may be that the



rate of return demanded on railroad securities for the year 1917 will slightly increase. It is not impossible. In my opinion it would injure the credit of any other business institution on earth if its owners or representatives stand upon the housetops and declare it was bankrupt and could not pay its debts unless it was helped.

Mr. SIMS. Would not that be the natural effect if it had any effect at all.

Mr. BRISTOW. I think it would.

Mr. SIMS. If a man owns a farm and discovers it is not paying and wants to sell, does he advertise he is losing money on it and that its earnings are running down, and therefore he would like to sell it, or have some law passed to increase its earnings?

Mr. BRISTOW. That is not the practice, I think.

Mr. SIMS. In other words, if an individual has property that is losing in value, does he not keep that fact to himself and undertake to dispose of it?

Mr. BRISTOW. That is the way a great many men do it. I do not know whether it is ethical or not.

Mr. SIMS. As a rule, individuals own stocks and railroad securities. Have you noticed, in the reports of sales of stocks on the New York Stock Exchange, the volume of them and the amount of them of the Pennsylvania and the Union Pacific and other good systems, in proportion to the whole amount of stocks outstanding? Have you given any attention to the amount of sales?

Mr. BRISTOW. I have not given attention to those details recently.

Mr. SIMS. Are they not, in fact, extremely small on a declining market, in proportion to the entire volume held?

Mr. BRISTOW. I would not be able to answer that because I have not looked it up.

Mr. SIMS. I have noticed myself, in order that it may appear in the record, in the number of stocks and number of shares sold daily in the New York Stock Exchange, and while I have not got the years to run back, it seems to me the number of shares offered for sale and sold are extremely small of the good railroads in proportion to the number of shares outstanding, which leads me to believe that the people who own stock, as a rule, have confidence in them.

Mr. BRISTOW. If I had Union Pacific or the Santa Fe stocks, the Santa Fe paying 6 per cent on the common and the Union Pacific 8, with the surplus which those roads have, I think about \$100,000,000 each, I would not sell it for less than par, and I do not think anybody else would.

Mr. SIMS. Notwithstanding the property these roads have and the property behind them, is it not a fact—I am asking you, now, as an expert on the question—is it not a fact that the existing railroad facilities of the country are not performing the services to the extent of the demands or requirements at this time, and have not been for the last three years?

Mr. BRISTOW. I think the railroads have fallen down: yes. There is no doubt about that. They are not serving the people as they ought to. I noticed in this little bulletin submitted this morning that the car shortage in our State, while it is not as bad as last year, is somewhat acute this year, and it ought not to be.

Mr. SIMS. I did not mean to imply by what I have said that they are willfully refusing or failing to furnish the service that the country

is demanding for the last three or four years, but I do mean to imply that the country is not getting the service it needs.

Mr. BRISTOW. No; I did not mean to say they are willfully refusing to do it. I do not think they can handle the business now, because they have not prepared for it.

Mr. SIMS. They have not the facilities?

Mr. BRISTOW. They have not the facilities, and they have not obtained the equipment they ought to obtain.

Mr. SIMS. At this time, Senator, do you not think it is practically impossible to market stocks of any kind of corporation in large volume at anything like a reasonable price when you have to sell them in competition with the Government's war obligations, which are being issued in the billions?

Mr. BRISTOW. I think that is true. I think that interest rates are going up very rapidly, and will as long as there is such a tremendous amount of securities being put on the market.

Mr. SIMS. Would it not be very unwise for the railroad companies of the country, even if they could do it, to put out long-term bonds in sufficient amount to build new lines, double track those they have, and add such terminal improvements as they need in the way of additional terminal facilities at the present costs of material and labor, which would become a burden upon the patrons of the roads in years to come, in the payment of new capitalization?

Mr. BRISTOW. I do not think they ought to make extensive improvements under the present conditions, when it would cost so much; but, Mr. Sims, the inability of the railroads to handle the business of the country is due to congested terminals. I was impressed very much with that fact when it was called to my attention by Judge Prouty some year or two ago—and Judge Prouty I regard as the greatest authority on matters of this kind in the United States—he stating then that the railroads were going to break down in their terminal facilities. That was before they had broken down. He saw it coming.

Now, to enlarge their terminal facilities under the existing transportation system, I think is folly, because, with the concentration of business in this country into a few terminals, the values will mount up year after year, as they have in the years past, and, as Mr. Rea says, the business doubles every 12 years, and there will be with each increase an enormous expenditure necessary in these centers for additional terminals, so it will ultimately become impossible to provide them. The thing will collapse some time, anyway, regardless of what is done now. There is a system of transportation throughout the United States now that is concentrating things in a few centers, and that is something that is impossible to continue without disaster. It has broken down now, and I think it is fortunate that it has, because it has called to the attention of the people of the country a condition that should not be allowed to obtain. You ought to divert, disseminate, and scatter this congestion so that it will be impossible for it to obtain in any one place. When cars are blocked in terminals like New York and Chicago for months, and you can not get through, it is time that some positive action be taken. That is what has happened in the last two years. It happened last year worse than this year. It is

happening very much now, so I am told, in the East, and it is bad enough in the West.

Mr. SIMS. Do you think that the United States, as whole and in all its parts, can reach the state of development to which it is entitled, and will, in the very nature of things, come about without a good transportation system in every part of the United States, a transportation system that serves every part to the extent of the demands of the general business of the country as a whole?

Mr. BRISTOW. I think the development of the transportation system is absolutely necessary, and I think, under the present system, it can not be successfully developed. There are two impediments that I have observed; first, there is a growing tendency among the railroad systems not to invade each other's territory, and where a company has a monopoly of a certain territory the service is not as good as where there is a competitive condition, as a rule. It is not universally true, of course. It is true of a great many railroads. Some railroads are big enough and broad enough to handle the noncompetitive business with equal facility as the competitive business, but they are not all that way. I know territories and sections where there ought to be new railroad construction, where new railroad construction has been prevented because one line would object to another line running into its territory, and since it can keep another line out of its territory it will not make any additional expenditures. Now, that condition ought not to prevail. There would be danger in this system that I suggest, of making extensions that will not pay, if it was not provided against, and so far as extensions are concerned, I think that the public that is to directly benefit from such extensions ought to be required to invest in that extension to a certain amount. They have already done it. There are very few railroads in our section of the country where the public does not contribute largely in the shape of subscriptions for bonds and stocks for the original construction of railroads. They are always obtained out of investments of these people, and they are always promised they will have the benefit of their investments in these stocks and bonds, and think that they are going to get something out of them, but they are not, because, in the course of time, through reorganizations, etc., they are robbed.

Mr. SIMS. A case of that sort has recently come under my observation in my own State, where an existing railroad proposed to extend its mileage to the extent of 40 miles in order to connect up with the Tennessee River on the condition that the counties through which it was to be projected should issue its bonds in the sums demanded, for which stock in the new railroad was to be given by the railroad company that would build the line. The counties held elections and the issue of bonds was authorized, but the extreme high prices of railroad construction and material and labor were such that, by the time they got through their elections and issued the bonds, they would not more than half meet the expenditures, and so of course, it broke down. I do not see how it is possible to build railroads now, with the cost of material and labor, for which they should be permitted to issue permanent railroad capital obligations, which shall become a burden on the people they serve, unless there is some system devised by which the earnings of the railroads of the United States shall be



applied to all the railroads for proposed necessary extensions. Then you would not have to wait to know whether a particular branch will pay or will not pay. It is just the same as with the rural routes, which we extended to give a mail service, where the increased revenues to the Government, on account of the extended service did not pay half the expense, but during which time all the postal revenue paid all the expenses, and more too.

In this particular instance I have recited, this particular railroad was to go through some fine timber lands in our State, where it could not be developed without the railroad. The fact that this proposition failed is not due to the fault of the counties at all. And I want to say further, that it looks to me like this committee is making a study of things that are absolutely abnormal.

Mr. BRISTOW. I agree with you on the proposition that there should be a unified system, and that these extensions should be made even where they, themselves, would not be profitable. If you will remember, our postal system was started as a private concern, and it was due to scandals that grew up under an administration back about three quarters of a century ago, under a Postmaster General who overreached himself in extending these interior mail routes until he got the system involved in debt and Congress became disgusted with his management, and had all the money from the Postal Service put into the Treasury, and the deficit paid out of the Treasury. I think it was an error to change that system, simply because one man mismanaged it. I think they had better have reorganized it, in my judgment, along a different basis. But that would not be nearly as great a danger with the transportation system, with its enormous expenditures and ramifications. Our governmental agencies are better organized now. I am very much in favor of keeping our transportation system free from any public expenditures, and making it stand as a business institution in its own merit, and when the extensions are needed, let the public that is to be directly benefited by such extensions, put up a reasonable amount of their own money to obtain them, and that will be a sufficient safeguard against exploitation in my judgment. I would make it 50 per cent of the cost of construction.

Mr. SIMS. If I understand you, your conclusion is that whatever may be the cause of certain conditions—that is, the conditions before the present conditions, because I do not mean simply the conditions that have arisen since we became a party to the European War—but up to that time, the conditions have been such as to establish the fact that the railway service of the country can be performed as a unit much more economically and at much less cost than it can be with competitive railways and competitive systems as heretofore conducted.

The question is whether we should eliminate competition and provide unification along the line of repealing such portions of the anti-trust laws, pooling laws, etc., and give the Interstate Commerce Commission the power to pass upon and ratify agreements made by the railroads themselves as private companies, and competing companies, or whether we shall undertake to have unification by private ownership or Government ownership or some instrumentality such as you suggested. But it seems to me, any way you look at it, that unification of facilities must come about. Is that, or not, your view?

Mr. BRISTOW. I think so.

Mr. SIMS. Now, it is only a question of what is the best policy to be pursued in order to get it.

Mr. BRISTOW. Yes, sir.

Mr. SIMS. While we could profitably, I think, examine you for several days, Senator, I think you have been very patient, and I am not disposed to press the matter any further nor to ask you to present it any further, but I have felt that a man who has had the opportunities to know whereof he speaks, both as an ex-United States Senator and Government official and now a State official in a position to become an expert on the questions primarily and directly involved, that it was well enough to have you make a full statement. As far as I am concerned, I feel very much under obligation to you.

Mr. BRISTOW. I thank you very much.

The CHAIRMAN. You suggested the creation of one organization by the National Government to take over these roads. Under the present system of railroad organization, there seems to be three traffic areas, the western, southern, and eastern. What would you think of having three organizations that would embrace the railroads in those three traffic areas?

Mr. BRISTOW. That might be better than the present system, but I think they all ought to be unified. Of course there may be such conditions that you would have to have subdivisions, but I think the ownership should be unified.

The CHAIRMAN. That is all. I am very much obliged to you, Senator Bristow.

Mr. BRISTOW. I am very greatly obliged to you gentlemen.

Senator CUMMINS. Mr. Chairman, what about a future program?

The CHAIRMAN. I think that the sense of the members of the committee who were present yesterday was that it would be best to leave that matter in the hands of the chair, and that the committee shall be called together by the chair when the occasion or opportunity arises. You were not present, Senator Cummins, and I should be glad to have your views on that matter.

Mr. SIMS. Did we not suggest that we should confer after the recess on a program?

Senator CUMMINS. I am quite anxious, myself, to get through.

The CHAIRMAN. The committee will go into executive session.

(Whereupon, at 11.45 o'clock a. m., the committee went into executive session, at the conclusion of which it adjourned subject to the call of the chairman.)





## APPENDIX A.

### CREDIT EXHIBIT OF REPRESENTATIVE WESTERN RAILROADS.

[Prepared by J. Pease Norton on behalf of the committee on State and Federal legislation of the National Association of Railway Commissioners.]

#### OUTLINE OF EXHIBIT.

	Page. <sup>1</sup>
Group summaries of western railroads—Yields on bonds.....	4
Detail statistics of bond issues—Yields.....	5-12
Detail statistics of municipal bonds—Yields.....	16-25
Group summaries of municipal issues—Average yields.....	25-26
Comparison of average yields of railroads and municipals.....	28
Average prices of railroad stocks.....	30-33

#### WESTERN ADVANCE RATE CASE—I. & S. DOCKET NO. 555.

Page 1, 1916 edition.<sup>2</sup>

Actual yields—Railroad bonds.

Sheet <sup>3</sup> No. 2.

Railway credit—Exhibit No. 3, page A.

The increase in the yield on any class of securities issued by companies engaged in private business might be occasioned by either one of two sets of factors—first, the inherent earnings and the condition of the company itself declining in character; or, second, the general financial situation, the large production of gold, etc. Both sets of factors may be in existence, and in operation at the same time.

The true test of the effect of the general financial situation would be the pure money rate on long-term securities were that figure attainable, because that, in itself, would reflect precisely the second set of factors to which we have referred. The next best test is the closest approach we have to the pure money rate, which is represented, we believe it will be generally conceded, by Government securities when unaffected by war conditions, and by the bonds of the highest class of municipalities where the innumerable personal factors of hazard and risk in business are eliminated to the largest possible extent. If the yields on the bonds of a company engaged in private business increase more than the pure money rate, then it is fair evidence that the credit of a given company has declined during the period of time covered. On the other hand, if the yields on the bonds of the given company have increased at a less proportion than the pure money rate, then this shows that the credit of the company is on a better plane in the latter portion of the period covered. It is for the purpose of applying this test to railway securities that we have compiled on the following pages the actual yields on the bonds of the 20 largest cities of this Nation. These we compare with the yields on the securities of representative railroads in western territory. On account of the war, yields of national Governments have been omitted. To include these yields would be obviously unfair to the railroads, since yields on Government bonds have greatly advanced.

Page 2, 1916.

Actual yields—Railroad bonds.

Sheet No. 3.

Railway credit—Exhibit No. 3, page B.

Exhibit No. 3 shows the results of computing the actual yields upon all the bonds of the 41 railroads mentioned in the original suspension order (1915 rate case) of the Interstate Commerce Commission, for which price quotations were to be obtained in the Financial Review of the Commercial and Financial Chronicle, substantially continuously from 1890 to 1914, or from 1900 to 1914.<sup>4</sup> When quotations on a given

<sup>1</sup> Page numbers in upper left-hand margin for present edition bringing down to 1916 figures in previous exhibits, sheet numbers of which appear in right-hand upper margin. Previous exhibits, known as Norton Exhibits 1-6, railway credit, I. & S. Docket No. 555, 1915, contained figures down to 1914, inclusive.

<sup>2</sup> "1916 edition" figures for pages appear in upper left-hand margin.

<sup>3</sup> "Sheet" numbers refer to I. & S. Docket No. 555.

<sup>4</sup> Now brought down to Dec. 31, 1916.

security are unobtainable for three consecutive years or more we omit that series. The railroads mentioned in the original suspension order are the following:

Atchison, Topeka & Santa Fe Railway Co.  
 Chicago & Alton Railroad Co.  
 Chicago & Eastern Illinois Railroad.  
 Chicago & North Western Railway Co.  
 Chicago, Burlington & Quincy Railroad Co.  
 Chicago Great Western Railroad Co.  
 Chicago, Milwaukee & St. Paul Railway.  
 Chicago, Rock Island & Pacific Railway.  
 Chicago, St. Paul, Minneapolis & Omaha Railway.  
 Choctaw Railway & Lighting Co.  
 The Colorado & Southern Railway Co.  
 El Paso & Southwestern System.  
 Fort Smith & Western Railroad Co.  
 Galveston, Houston & Henderson Railroad.  
 Great Northern Railway Co.  
 Hillsboro & North Eastern Railway Co.  
 Illinois Central Railroad Co.  
 Kansas City, Mexico & Orient Railroad Co.  
 Kansas City Southern Railway Co.  
 Midland Valley Railroad Co.  
 Minneapolis & St. Louis Railroad Co.  
 Minneapolis, St. Paul & Sault Ste. Marie Railway.  
 Missouri & North Arkansas Railroad.  
 Missouri, Kansas & Texas Railway Co.  
 Missouri, Oklahoma & Gulf Railway Co.  
 Missouri Pacific Railway Co.  
 St. Louis, Iron Mountain & Southern Railway Co.  
 Morgan's Louisiana & Texas Railroad & Steamship Co.  
 Louisiana Western Railroad Co.  
 Iberia & Vermillion Railroad Co.  
 Lake Charles & Northern Railroad Co.  
 Northern Pacific Railway Co.  
 Oregon Short Line Railroad Co.  
 St. Louis & San Francisco Railroad.  
 St. Louis, Rocky Mountain & Pacific Railway Co.  
 St. Louis Southwestern Railway Co.  
 Texas & Pacific Railway Co.  
 Trinity & Brazos Valley Railway Co.  
 Union Pacific Railroad Co.  
 Wabash Railroad.  
 Wisconsin & Michigan Railway.

These railroads we have divided into three groups: (1) Western, (2) Southwestern, and (3) other than Western and Southwestern. Our basis for this grouping is as follows: We have placed in the Western group of railroads those carriers operating in western classification territory, north of the line separating Kansas from Nebraska and Missouri from Iowa. The carriers serving the territory south of that line we have placed in the southwestern group. We have excluded from each of these groups all carriers two-thirds of whose mileage is outside of the territory described. We give in the exhibits all of the quotation for all of the railway companies named by the commission in its original order for which quotations were obtainable, as stated above.

The roads in each group which were quoted in the Financial Review are reported in the following summary:

Western—

Chicago, Burlington & Quincy, 6 bonds.  
 Chicago, Milwaukee & St. Paul, 6 bonds.  
 Chicago & North Western, 10 bonds.  
 Chicago, St. Paul, Minneapolis & Omaha, 3 bonds.  
 Great Northern, 6 bonds.  
 Minneapolis & St. Louis, 3 bonds.  
 Northern Pacific, 7 bonds.  
 Union Pacific, 4 bonds.  
 Total in group, 45 bonds.

## Southwestern

Atchison, Topeka & Santa Fe, 3 bonds.  
 Chicago, Rock Island & Pacific, 5 bonds.  
 Colorado & Southern, 1 bond.  
 Kansas City Southern, 1 bond.  
 Missouri, Kansas & Texas, 5 bonds.  
 Missouri Pacific, 8 bonds.  
 Southern Pacific, 12 bonds.  
 St. Louis & San Francisco, 3 bonds.  
 St. Louis Southwestern, 2 bonds.  
 Texas & Pacific, 2 bonds.

Total in group, 41 bonds.

## Other than Western and Southwestern—

Chicago & Alton, 1 bond.  
 Chicago & Eastern Illinois, 4 bonds.  
 Illinois Central, 7 bonds.  
 Wabash, 3 bonds.

Total in group, 15 bonds.

The arrangement of the exhibit shows the results by groups:

Western: Group A, actual yields, 45 bonds; group B, summaries of averages; group C, summaries of relative yields.

Southwestern: Group D, actual yields, 41 bonds; group E, summaries of averages; group F,<sup>1</sup> summaries of relative yields.

Other than Western and Southwestern: Group G, actual yields, 15 bonds; group H, summaries of averages; group I,<sup>1</sup> summaries of relative yields.

Page 3, 1916.

Sheet No. 4.

(To precede Exhibit No. 3, page 1)

We present here the evidence from 1890 to 1914 for the western group, as explained in the preceding statement. In this table the name of the railroad and the details of the bond issues appear in the first column. Under the heading of the year appear the actual yields for the year. Two selections were made, all bonds running from 1890 to 1914 and all bonds running from 1900 to 1914. In some cases we were able to carry back the quotations of the 1900 group to the year of issue. The method of computation may be described as follows: Upon this page in round numbers let us assume that there are 1,000 yields; each yield represents a series of high and low monthly quotations running through the year; assuming that quotations were available in the 12 months, this involves collecting from the Financial Review 24,000 quotations, computing 1,000 averages, making 700 interest deductions, and computing 1,000 yields from the bond tables. This is really an enormous task. Now, to insure accuracy, this work was done under a "double independent system." Everything was collected twice independently and averaged independently and computed for the yield independently. Comparisons of results were made and disagreements recomputed and errors eliminated. In other words, everything was done twice independently. Consequently, the figures on this table represent twice the previous statistics, or really upon the above basis, 48,000 quotations collected, 2,000 averages, 1,400 interest deductions, and 2,000 yields computed. When I say that the work of computing a yield averages 20 per hour per worker, this requires for 2,000 yields upwards of 200 hours for computing the yields alone. The reason why there are 1,400 interest deductions rather than 2,000, as in the other cases, comes from the fact that bond quotations from 1909 on were upon "an interest basis" and before 1909 quotations were "flat," or including accrued interest. I think it is safe to say that never previously have so many yields been computed for so many securities over so long a period, and it is my hope that this work performed largely in 60 days by my assistants and myself, working together for the first time, may not be charged with an overplus of clerical errors. Some errors will probably be found. In advance let me say that every precaution known to me in handling statistical material has been conscientiously observed. "Inserted for continuity" means that quotations were missing for the year, and, in order to complete the tables for averages, a figure was inserted with a value halfway between the figures for the year before and for the year after. Thus, in 1913, Northern Pacific, sixth bond down, 4.5 is inserted, halfway between 4.3 and 4.7. When yields were arrived at by approximate methods, it means that the quotation ran off the bond tables. Later we checked

<sup>1</sup> Not included in this extension of original exhibit.



these values by application of the logarithmic formula used by Statistician Meyer in Bulletin No. 20, referred to in Norton, Exhibit No. 2.

In group B these averages are made up from group A by adding the yields in a given column for a given railroad and dividing by the number of bonds. The average for eight railroads consolidated is the application of the same method to all the bonds of all the railroads treated as a single railroad. It will be noted (1) that the actual advance, 1900 to 1914, averages 0.5 or 12.8 per cent; (2) in the lower table, the advance in the consolidated average is 0.6 for all the bonds of all the western roads, quoted from 1900 to 1914, or 15.4 per cent. In this territory, then, railroads are able to obtain capital at 4.4 to 4.5 per cent in 1914, retail prices, against 3.9 in 1900 and 4.8 in 1890. We are unable to say whether this advance in yield 1914 over 1900 is due to causes inherent in the company or causes outside the company until we compare these figures with other securities representing the pure money rate. This we will do in the pages which follow, Exhibits 4, 5, and 8.

For some companies there may be a decline in the credit, for others an improvement in the credit. We are here primarily concerned with the composite situation, the condition of the railway companies as a whole. However, both phases of the proposition can be readily considered by an analysis of the data appearing on the following pages, Exhibits 4, 5, and 8.

When we consider the vast amount of funded debt represented by these figures, and reflect that the rate of interest was in 1914, a year of depression, only  $4\frac{1}{2}$  per cent, it becomes apparent how extravagant are the claims of the railroads for 7 per cent upon the property investment. To allow 7 per cent upon property investment would be roughly equivalent to legitimizing in an industry, where competition between railroads is extremely limited, really quite excessive returns, as the following table shows.

Table showing what 7 per cent on property investment would return upon common stock of a corporation which was bonded for various proportions of property investment and with the capital stock issued at par.

Return upon common stock when bonds floated at $4\frac{1}{2}$ per cent, at par:	Per cent.
40 per cent.....	8.7
60 per cent.....	10.8
70 per cent.....	14.2
80 per cent.....	17.0

The wonderful stability of the railroad industry makes it possible to bond the property to a considerably higher degree than it is safe to bond ordinary industrials, largely because most of the hazards of competition are eliminated. This possibility of a high bonding ratio in the railroad industry is an advantage of rate regulation which it seems should be shared with the public.

In group D we present the yields upon the bonds in the southwestern territory mentioned in the original suspension order of the commission. In Group F the relative yields are computed upon the method previously explained.

## GROUP SUMMARIES.

[4A.]

Page 4, 1916.

Groups.	1890	1891	1892	1893	1894	1895	1896	1897	1898	1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916
Number of bonds.																										
Western railroads:																										
8 companies, 1890 (consolidated) (p. 7, 1916 ed.)	27	4.8	5.0	4.8	5.0	4.8	4.7	4.7	4.4	4.2	3.9	4.0	3.9	3.9	4.0	4.1	4.3	4.3	4.1	4.3	4.3	4.3	4.6	4.5	4.6	4.4
8 companies, 1900 (p. 7, 1916 ed.)	39																									
Southwestern railroads:																										
6 companies, 1890 (consolidated) (p. 9, 1916 ed.)	20	5.6	5.7	5.6	5.9	6.0	5.6	5.9	5.7	5.2	4.7	4.7	4.4	4.4	4.5	4.3	4.4	4.7	4.7	4.4	4.6	4.6	4.7	5.0	5.1	6.0
6 companies, 1900 (p. 9, 1916 ed.)	40																									
3 miscellaneous companies, 1890 (consolidated)	9	4.7	4.8	4.6	4.7	4.6	4.5	4.6	4.5	4.3	4.0	4.8	4.4	4.4	4.6	4.5	4.4	4.7	4.7	4.5	4.6	4.6	4.7	5.0	5.1	5.9
4 miscellaneous companies, 1900 (consolidated)	14																									
17 companies, above 1890 (consolidated)	56	5.1	5.2	5.1	5.3	5.2	5.0	5.1	4.9	4.6	4.2	4.3	4.1	4.1	4.3	4.2	4.1	4.2	4.4	4.2	4.1	4.1	4.1	4.8	4.8	5.2
18 companies, above 1900 (consolidated)	93																									
13 companies, 1900	72																									

Companies omitted, C. R. I. &amp; P., M. K. &amp; T., N. P., C. &amp; A., and C. &amp; E. I.

Page 5, 1916.  
Actual yields—Railroad bonds.

GROUP A.—WESTERN RAILROADS.

[Authority: Financial Review.]

Railway system and description of bond.	Date of maturity.	1890 1891 1892 1893 1894 1895 1896 1897 1898 1899 1900 1901 1902 1903 1914 1915 1916																											
CHICAGO, BURLINGTON & QUINCY.																													
Nebr. ex., 1927 4's.	May 1, 1927	4.5	4.9	4.7	4.9	4.7	4.6	4.8	4.5	4.1	3.5	3.4	3.4	3.5	3.7	3.7	3.6	3.7	4.1	1.0	3.9	4.1	1.1	1.2	4.4	4.3	4.4	4.2	
Denver div., 1922 4's.	Feb. 1, 1922	4.5	4.7	4.5	4.6	4.5	4.3	4.6	4.3	4.1	3.8	4.0	3.9	3.9	4.0	3.9	4.0	4.2	4.1	4.0	4.1	4.0	4.0	4.1	4.1	4.1	4.1	4.1	
Iowa div., 1919 s. f. 5's.	Oct. 1, 1919	4.6	4.9	4.7	4.8	4.6	4.5	4.7	4.6	4.3	3.9	3.9	4.0	3.9	4.3	4.2	4.3	4.5	4.5	4.1	4.3	4.2	4.2	4.6	4.6	4.6	4.6	4.6	
Iowa div., 1919 s. f. 4's.	do	4.3	4.6	4.4	4.5	4.3	4.1	4.3	4.1	4.0	3.7	3.7	3.9	3.9	3.8	4.0	4.1	4.2	4.0	4.1	4.1	4.1	4.1	4.3	4.3	4.3	4.3	4.3	
Ill div., 1909 3's.	Aug. 1, 1919	...	...	...	...	...	...	...	...	...	3.4	3.4	3.4	3.5	3.8	3.8	3.7	3.8	4.1	4.2	4.0	4.1	4.2	4.2	4.2	4.2	4.2	4.2	
S. W. div., 1921 4's.	Sept. 1, 1921	...	...	...	...	...	...	...	...	...	4.0	4.1	4.1	4.0	4.1	4.1	4.2	5.1	4.5	4.0	4.1	4.1	4.1	4.1	4.3	4.2	4.2	4.1	
CHICAGO, MILWAUKEE & ST. PAUL.																													
Genl. M. B., 1893 3's.	May 1, 1899	4.3	4.8	4.5	4.4	4.4	4.4	4.3	4.0	3.8	3.6	3.6	3.6	3.6	3.7	3.7	3.6	3.8	4.0	4.0	3.9	4.0	4.0	4.1	4.1	4.3	4.3	4.5	4.1
Genl. ser. A., 1899 4's.	do	5.0	5.2	4.9	5.0	4.7	4.7	4.6	4.4	4.2	3.8	3.8	3.8	3.8	3.7	3.6	3.7	3.9	4.2	4.0	4.0	4.3	4.0	4.2	4.3	4.2	4.5	4.4	
Ch. & Mo. Riv. div., 1926 5's.	July 1, 1925	4.7	4.7	4.5	4.5	4.4	4.2	4.3	4.1	4.0	3.6	3.7	3.7	3.6	3.8	3.8	3.9	4.2	4.1	4.0	4.1	4.1	4.1	4.2	4.5	4.4	4.5	4.4	
Ch. & Pac. W. div., 1921 5's.	Jan. 1, 1921	4.9	5.0	4.8	5.0	4.6	4.5	4.5	4.3	4.2	3.7	3.7	3.7	3.9	4.0	3.8	3.9	4.2	4.1	4.0	4.1	4.1	4.3	4.3	4.2	4.6	4.6	4.2	
Ia. C. & D. 1st 1919 5's.	July 1, 1919	4.9	4.9	4.7	4.8	4.6	4.4	4.5	4.2	4.1	3.7	3.8	3.8	3.7	3.9	3.9	3.8	3.9	4.3	4.2	4.0	4.2	4.2	4.2	4.5	4.6	4.6	4.2	
Wis. & Min. div., 5's 1921.	July 1, 1921	4.9	4.9	4.7	4.8	4.6	4.4	4.5	4.2	4.1	3.7	3.8	3.8	3.7	3.9	3.9	3.8	3.9	4.3	4.2	4.0	4.2	4.2	4.2	4.5	4.5	4.5	4.2	
CHICAGO & NORTH WESTERN.																													
Ex. 1926 4's.	Aug. 1, 1926	4.1	4.3	4.2	4.1	4.0	4.0	4.0	3.8	3.8	3.6	3.5	3.5	3.6	3.8	3.8	3.7	3.8	4.0	4.2	3.9	4.1	4.1	4.3	4.5	4.4	4.8	4.1	
S. F. 1929 5's.	Oct. 1, 1929	5.1	5.2	5.0	5.1	5.0	4.9	4.8	4.6	4.5	4.3	4.3	4.2	4.3	4.5	4.4	4.5	4.6	5.1	5.1	5.1	5.1	5.1	5.1	5.2	5.1	5.1	4.8	
S. F. deb., 1929 5's.	do	4.6	4.7	4.6	4.6	4.5	4.4	4.4	4.2	4.1	3.9	4.0	3.8	3.8	4.1	4.1	4.0	4.2	4.3	4.3	4.3	4.3	4.3	4.5	4.6	4.6	4.6	4.5	
M. L. S. & W. ext. and imp., 29 g. 5's.	May 1, 1929	4.9	5.1	4.7	4.8	4.6	4.4	4.4	4.2	4.1	3.8	3.7	3.8	3.9	3.9	3.8	4.0	4.1	4.2	4.3	4.3	4.3	4.3	4.5	4.7	4.7	4.8	4.3	
1915 7's.	Apr. 1, 1915	4.4	4.6	4.4	4.6	4.2	4.1	4.2	3.9	3.7	3.5	3.5	3.4	3.6	3.9	3.9	3.8	4.0	4.1	4.2	4.0	4.1	4.2	4.3	4.4	4.4	4.6	4.3	
M. L. S. & W. 1st 21 6's.	May 1, 1921	4.8	4.7	4.5	4.6	4.3	4.2	4.2	3.9	3.8	3.5	3.6	3.6	3.7	4.0	4.0	4.0	4.2	4.2	4.2	4.2	4.2	4.2	4.3	4.3	4.5	4.5	4.3	
M. L. S. & W. Mich. div., 1st 24 6's.	July 1, 1924	5.1	5.1	4.7	4.7	4.6	4.5	4.4	4.2	4.0	3.9	3.9	3.9	3.9	4.1	4.1	4.0	4.3	4.2	4.1	4.1	4.3	4.2	4.3	4.5	4.5	4.5	4.3	
Del. 1921 5's.	Apr. 15, 1921	4.8	4.7	4.8	4.6	4.5	4.5	4.5	4.2	4.0	3.9	3.9	3.9	3.9	4.1	4.1	4.0	4.3	4.2	4.1	4.1	4.3	4.3	4.4	4.5	4.5	4.5	4.3	
Genl. 1897 5's 3's.	Nov. 1, 1897	...	...	...	...	...	...	...	...	...	3.4	3.3	3.2	3.2	3.3	3.4	3.5	3.6	3.8	3.8	3.8	3.8	3.8	4.0	4.0	4.1	4.3	4.1	
CHICAGO, ST. PAUL, MINNEAPOLIS & OMAHA.																													
1930 6's.	June 1, 1930	4.9	5.1	4.8	4.9	4.6	4.6	4.6	4.3	4.1	4.0	4.1	3.8	3.8	4.1	4.0	3.8	3.9	4.3	4.2	3.9	4.1	4.1	4.2	4.5	4.4	4.5	4.3	
C. & St. P. & M. 1st 1918 6's.	May 1, 1918	4.6	4.7	4.6	4.6	4.2	4.1	4.2	3.9	3.7	3.6	3.6	3.6	3.6	3.6	3.6	3.8	3.8	4.0	4.3	4.2	4.2	4.2	4.5	4.5	4.5	4.5	4.3	
St. P. & S. C. 1st 1919 6's.	Apr. 1, 1919	4.6	4.7	4.6	4.7	4.3	4.2	4.2	4.0	3.9	3.8	3.8	3.8	3.8	4.1	4.1	3.8	4.0	4.3	4.2	4.2	4.2	4.2	4.5	4.5	4.5	4.5	4.4	

Sheet No. 5,  
Exhibit No. 3, page 1.

1930 6's. 4.3 4.4 4.3 4.4 4.3 4.4 4.3 4.4 4.3 4.4 4.3 4.4 4.3 4.4 4.3 4.4 4.3  
C. & St. P. & M. 1st 1918 6's. 4.3 4.4 4.3 4.4 4.3 4.4 4.3 4.4 4.3 4.4 4.3 4.4 4.3 4.4 4.3 4.4 4.3  
St. P. & S. C. 1st 1919 6's. 4.3 4.4 4.3 4.4 4.3 4.4 4.3 4.4 4.3 4.4 4.3 4.4 4.3 4.4 4.3 4.4 4.3



## GREAT NORTHERN.

St. P., Minn. & M. 1st con. '33 6's.	July 1, 1933	5.1	5.2	4.9	5.0	5.0	4.9	4.8	4.6	4.3	3.9	3.9	4.2	4.2	3.9	4.0	4.3	4.2	4.0	4.2	4.1	4.2	4.5	4.4	4.5	4.2
Reduced to 4's, 1933.	do.	4.5	4.6	4.5	4.5	4.5	4.4	4.3	4.2	4.1	3.7	3.7	3.7	3.7	3.8	4.0	4.0	3.8	3.9	4.1	4.0	4.1	4.1	4.3	4.1	4.3
Mont. ext. 1st 1937 g. 4's.	June 1, 1937	4.6	4.9	4.6	4.7	4.8	4.6	4.8	4.4	4.1	3.8	3.9	3.8	3.7	4.0	3.9	3.8	4.0	4.2	4.1	4.0	4.1	4.2	4.1	4.3	4.3
Mont. Genl. 1st 2d g. 5's, 1937.	July 1, 1937	5.2	5.2	5.2	5.4	5.3	5.1	5.2	5.0	4.6	4.2	4.3	4.1	4.0	4.2	4.3	4.1	4.1	4.3	4.3	4.1	4.3	4.2	4.1	4.1	4.3
1st guar. 1937 5's.	do.	5.1	4.9	5.0	5.1	4.9	5.0	4.7	4.6	4.2	4.1	3.9	3.8	4.2	4.2	4.0	4.0	4.4	4.3	4.1	4.2	4.2	4.3	4.5	4.5	4.3
C. B. & Q. cl. 11, 4's, 1921.	July 1, 1921											4.2	4.4	4.7	4.4	4.0	4.1	4.9	4.4	4.2	4.5	4.4	4.5	4.8	4.6	4.4

## MINNEAPOLIS &amp; ST. LOUIS.

1st Central 1st 1938 5's.	June 1, 1938	6.0	6.1	5.6	6.2	5.7	5.7	5.4	5.3	4.9	4.4	4.3	4.2	4.1	4.1	4.4	4.2	4.4	4.9	4.7	4.5	4.7	4.9	5.0	5.5	5.7	6.2	6.6
1st consol. g. 5's, 1934.	Nov. 1, 1934						4.9	5.1	4.8	4.7	4.3	4.2	4.0	3.9	4.2	4.1	4.1	4.3	4.7	4.9	4.1	4.6	4.6	4.8	5.3	5.1	4.2	6.0
1st and ref. 1919 g. 4's.	Mar. 1, 1919										4.2	4.2	3.9	3.8	4.1	4.2	4.2	4.3	4.9	5.2	4.9	5.3	6.0	6.7	7.5	8.2	8.3	7.2

## NORTHERN PACIFIC.

Nor. Pac. Term. 1st g. 1933 6's.	July 1, 1933	5.5	5.6	5.7	6.2	6.2	5.9	5.8	5.5	5.4	5.0	5.0	5.2	5.0	5.0	5.0	5.1	5.1	5.0	5.1	5.1	5.1	5.1	5.1	5.1	5.1	5.0
St. P. & No. P. genl. g. 23 6's.	Feb. 1, 1923	4.8	5.0	4.8	5.3	5.0	4.7	4.6	4.3	4.2	4.0	3.9	4.0	4.1	4.3	4.3	4.1	4.3	4.1	4.1	4.3	4.2	4.2	4.6	4.4	4.5	4.2
St. P. & Pac. 2nd 1917 5's.	Oct. 1, 1917	4.8	4.9	4.8	4.9	4.8	4.8	4.9	4.8	4.5	4.1	4.0	4.1	5.1	4.4	4.2	4.1	4.5	4.8	4.3	4.5	4.3	4.5	4.7	4.6	4.5	4.3
Prin. lien 1907 g. 4's.	Jan. 1, 1907						4.7	4.5	4.1	3.9	3.9	3.8	3.9	3.8	3.9	3.8	3.9	4.1	4.0	3.9	4.0	4.0	4.2	4.3	4.4	4.3	
Genl. lien 2047 g. 3's.	Jan. 1, 2047							5.4	4.8	4.5	4.5	4.2	4.1	4.3	4.2	4.0	4.0	4.4	4.2	4.1	4.2	4.3	4.4	4.5	4.7	4.5	
St. P. & Pac. 1st cons. 1908 4's.	June 1, 1908									4.0	4.1	3.9	4.0	4.2	4.2	4.0	4.1	4.4	4.1	4.0	4.1	4.1	4.2	4.3	4.5	4.7	4.6
St. P. & Pac. div. 1906 4's.	Dec. 1, 1906											4.0	4.0	4.1	4.1	4.0	4.1	4.2	4.4	4.1	4.1	4.1	4.2	4.4	4.5	4.4	4.4

## UNION PACIFIC.

Ore. Sh. L. 1st g. 1922 6's.	Feb. 1, 1922	5.3	6.0	5.8	6.4	7.3	6.2	5.1	4.8	4.3	4.1	4.1	4.1	4.3	4.2	4.0	4.1	4.1	4.1	4.2	4.1	4.3	4.3	4.1	4.6	4.5	4.3
Ore. R. R. & Nav. Cons. g. 4's.	June 1, 1946							5.1	4.7	4.2	3.9	3.9	3.9	4.1	4.0	3.9	4.0	4.3	4.2	4.1	4.2	4.2	4.3	4.3	4.5	4.6	4.5
Ore. Sh. L. 1st cons. 1946 g. 5's.	July 1, 1946								5.5	4.9	4.4	4.4	4.2	4.2	4.1	4.3	4.1	4.2	4.5	4.4	4.2	4.1	4.3	4.4	4.6	4.5	4.6
Bwy. & Ld. 1947 4's.	July 1, 1947									4.2	3.8	3.8	3.8	4.0	3.8	3.8	3.8	4.1	4.0	3.8	3.9	3.9	4.0	4.2	4.2	4.3	4.2

1 No quotations.

2 Matured.

3 Convertible into long term bond and yield becomes negligible.

4 Inserted for continuity.

5 Approximate.

## GROUP B.—WESTERN RAILROADS.

## SUMMARY OF AVERAGES, 1890-1914.

Page 6, 1916. Sheet No. 14.  
Actual yields. Railroad bonds. Railway credit Exhibit No. 3, p. 2.

Name of railroad.	Num- ber of bonds.	1890	1891	1892	1893	1894	1895	1896	1897	1898	1899	1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	Advance, 1900- 1914.			
		Actual.																							Actual.	Per cent.				
Chicago, Burlington & Quincy.	4	4.5	4.8	4.6	4.7	4.5	4.4	4.6	4.4	4.1	3.7	3.8	3.8	3.8	3.8	4.0	4.0	3.9	4.0	4.2	4.2	4.0	4.2	4.1	4.1	4.1	4.3	0.5	13.2	
Chicago, Milwaukee & St. Paul.	5	4.8	4.9	4.7	4.7	4.5	4.4	4.4	4.2	4.1	3.7	3.7	3.7	3.6	3.6	3.9	3.9	3.7	3.9	4.2	4.1	4.0	4.2	4.2	4.2	4.5	4.4	.7	18.9	
Chicago & North Western.	9	4.7	4.8	4.6	4.7	4.5	4.4	4.4	4.2	4.1	3.9	3.9	3.9	3.9	3.9	4.2	4.1	4.0	4.2	4.5	4.4	4.2	4.3	4.4	4.7	4.5	.6	15.4	4.4	
Chicago, St. Paul, Minneapolis & Omaha.	3	4.7	4.8	4.7	4.7	4.4	4.3	4.3	4.1	3.9	3.8	3.8	3.6	3.5	3.8	3.8	3.5	3.6	4.0	3.8	3.5	3.6	3.5	3.5	3.7	3.5	.3	—	7.9	
Great Northern.	5	4.9	5.0	4.8	4.9	4.9	4.8	4.6	4.3	4.0	4.0	3.9	3.8	4.1	4.1	3.9	4.0	4.3	4.2	4.0	4.3	4.2	4.0	4.2	4.1	4.2	4.4	.4	10.0	4.4
Minneapolis & St. Louis.	1	6.0	6.1	5.6	6.2	5.7	5.7	5.1	5.3	4.9	4.4	4.3	4.2	4.1	4.1	4.4	4.2	4.4	4.9	4.7	4.5	4.7	4.9	5.0	5.5	5.7	1.4	32.6	4.4	
Northern Pacific.	3	5.0	5.2	5.1	5.3	5.3	5.1	5.1	4.9	4.7	4.4	4.3	4.3	4.4	4.4	4.6	4.4	4.3	4.6	4.8	4.5	4.6	4.6	4.6	4.8	4.7	.4	9.3	4.4	
Union Pacific.	1	5.3	6.0	5.8	6.1	5.3	6.2	5.4	4.8	4.3	4.1	4.1	4.1	4.1	4.3	4.2	4.0	4.1	4.4	4.2	4.1	4.3	4.3	4.4	4.6	4.5	.4	9.8	4.4	
8 railroads (consolidated).	31	4.8	5.0	4.8	4.9	4.8	4.6	4.6	4.4	4.2	3.9	3.9	3.9	3.9	4.1	4.1	3.9	4.1	4.3	4.3	4.1	4.2	4.2	4.2	4.5	4.4	.5	12.8	4.4	

## SUMMARY OF AVERAGES, 1900-1914.

Name of railroad.	Num- ber of bonds.	1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	Advance, 1900- 1914.	
		Actual.															Actual.	Per cent.
Chicago, Burlington & Quincy.	6	5.7	5.8	5.8	5.8	5.9	5.9	5.9	4.0	4.4	4.2	4.1	4.1	4.1	4.4	4.3	0.6	16.2
Chicago, Milwaukee & St. Paul.	6	5.7	5.7	5.6	5.8	5.8	5.7	5.9	4.2	4.4	4.0	4.2	4.2	4.1	4.5	4.4	.7	18.9
Chicago & North Western.	10	5.9	5.8	5.8	5.4	5.1	5.1	5.9	4.1	4.4	4.3	4.1	4.3	4.3	4.6	4.5	.6	15.4
Chicago, St. Paul, Minneapolis & Omaha.	3	5.8	5.6	5.5	5.8	5.8	5.8	5.6	4.0	3.8	3.5	3.5	3.5	3.5	3.7	3.5	—	7.9
Great Northern.	6	4.9	5.0	5.0	4.8	4.2	4.2	3.9	4.0	4.1	4.2	4.2	4.2	4.3	4.5	4.4	.4	10.0
Minneapolis & St. Louis.	3	4.2	4.0	3.9	4.2	4.2	4.2	4.2	4.3	4.8	4.6	4.9	5.2	5.5	6.2	6.5	2.3	54.8
Northern Pacific.	7	4.3	4.1	4.2	4.4	4.3	4.2	4.2	4.2	4.4	4.2	4.3	4.3	4.4	4.6	4.6	.3	7.0
Union Pacific.	4	4.1	4.0	4.0	4.2	4.1	4.0	4.0	4.3	4.2	4.1	4.2	4.2	4.3	4.5	4.5	.4	9.8
8 railroads (consolidated).	45	5.9	5.9	5.9	5.9	6.1	6.1	5.9	4.0	4.4	4.3	4.1	4.2	4.2	4.6	4.5	.6	15.4

Railroad.

Number of bonds.

1890 1891 1892 1893 1894 1895 1896 1897 1898 1899 1900 1901 1902 1903 1904 1905 1906 1907 1908 1909 1910 1911 1912 1913 1914 1915 1916

bonds.		Actual.																								Per cent.					
		1890	1891	1892	1893	1894	1895	1896	1897	1898	1899	1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916			
Chicago, Burlington & Quincy.....	4	4.5	4.8	4.6	4.7	4.5	4.4	4.4	4.6	4.4	4.1	3.7	3.8	3.8	3.8	4.0	4.0	3.9	4.0	4.2	4.0	4.0	4.2	4.1	4.1	4.4	4.3	4.3	4.1	0.3	7.9
Chicago, Milwaukee & St. Paul.....	5	4.7	4.9	4.7	4.7	4.5	4.4	4.4	4.2	4.1	3.7	3.7	3.7	3.6	3.9	3.9	3.7	3.9	4.2	4.1	4.0	4.2	4.2	4.2	4.2	4.5	4.4	4.4	4.3	.6	16.2
Chicago & North Western.....	7	4.8	4.9	4.6	4.7	4.5	4.5	4.5	4.2	4.2	4.0	4.0	3.9	3.9	4.2	4.1	4.0	4.2	4.4	4.4	4.4	4.2	4.4	4.4	4.4	4.7	4.6	4.7	4.4	.4	10.0
Chicago, St. Paul, Minneapolis & Omaha.....	2	4.8	4.9	4.7	4.8	4.5	4.4	4.4	4.2	4.0	3.9	4.0	3.8	3.8	4.1	4.1	3.8	4.0	4.3	2	4.1	4.2	4.2	4.3	4.6	4.4	4.5	4.2	.2	5.0	
Great Northern.....	4	4.9	5.0	4.8	4.9	4.9	4.7	4.8	4.6	4.3	3.9	4.0	3.9	3.9	4.1	4.1	3.9	4.0	4.2	4.2	4.0	4.2	4.2	4.1	4.2	4.4	4.4	4.5	4.3	.3	7.5
Minneapolis & St. Louis.....	1	6.0	6.1	5.6	6.2	5.7	5.4	5.3	4.9	4.4	4.3	4.2	4.1	4.1	4.4	4.4	4.2	4.4	4.9	4.7	4.5	4.7	4.9	5.0	5.5	5.7	6.2	6.6	2.3	53.5	
Northern Pacific.....	3	5.0	5.2	5.1	5.3	5.3	5.1	5.1	4.9	4.7	4.4	4.3	4.3	4.3	4.4	4.4	4.4	4.6	4.8	4.6	4.6	4.6	4.6	4.6	4.8	4.7	4.7	4.5	.2	4.7	
Union Pacific.....	1	5.3	6.0	5.8	6.4	7.3	6.2	5.4	4.8	4.3	4.1	4.1	4.1	4.1	4.3	4.2	4.0	4.1	4.4	4.2	4.1	4.3	4.3	4.4	4.6	4.5	4.5	4.3	.2	.9	
Railroads (consolidated).....	27	4.8	5.0	4.8	5.0	4.8	4.7	4.7	4.4	4.2	3.9	4.0	3.9	3.9	4.2	4.1	4.0	4.1	4.3	4.3	4.1	4.3	4.3	4.3	4.6	4.5	4.6	4.4	.4	10.0	

SUMMARY OF AVERAGES, 1900-1914.

Railroad.	Num- ber of bonds.	Actual.																									Advance, 1900 1916.		
		1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925		
Chicago, Burlington & Quincy.	5	3.7	3.7	3.7	3.6	3.9	3.9	3.8	4.0	4.2	4.2	4.0	4.1	4.1	4.1	4.1	4.1	4.1	4.1	4.1	4.1	4.1	4.1	4.1	4.1	4.1	4.1	0.5	13.5
Chicago, Milwaukee & St. Paul.	5	3.7	3.7	3.6	3.9	3.9	3.7	3.9	3.9	4.2	4.2	4.1	4.0	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	.6	16.2
Chicago & North Western.	9	3.9	3.8	3.9	4.1	4.1	4.0	4.1	4.1	4.4	4.3	4.2	4.3	4.3	4.4	4.4	4.4	4.4	4.4	4.4	4.4	4.4	4.4	4.4	4.4	4.4	4.4	.5	12.8
Chicago, St. Paul, Minneapolis & Omaha.	2	4.0	3.8	3.8	4.1	4.1	3.8	4.0	4.3	4.2	4.1	4.2	4.1	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	.2	5.0
Great Northern.	4	4.2	4.0	3.9	4.2	4.2	4.2	4.3	4.8	4.9	4.6	4.9	4.6	4.9	4.6	4.9	4.6	4.9	4.6	4.9	4.6	4.9	4.6	4.9	4.6	4.9	4.6	.3	7.5
Minneapolis & St. Louis.	2	4.3	4.2	4.2	4.1	4.3	4.2	4.2	4.4	4.4	4.3	4.4	4.3	4.4	4.3	4.4	4.3	4.4	4.3	4.4	4.3	4.4	4.3	4.4	4.3	4.4	4.3	.2	57.1
Northern Pacific.	6	4.1	4.0	4.0	4.1	4.2	4.1	4.0	4.3	4.2	4.1	4.2	4.1	4.0	4.3	4.2	4.1	4.2	4.1	4.2	4.1	4.2	4.1	4.2	4.1	4.2	4.1	.3	4.7
Union Pacific.	4	4.1	4.0	4.0	4.1	4.2	4.1	4.0	4.3	4.2	4.1	4.2	4.1	4.0	4.3	4.2	4.1	4.2	4.1	4.2	4.1	4.2	4.1	4.2	4.1	4.2	4.1	.3	7.3
Railroads (consolidated).	39	4.0	3.9	3.9	4.1	4.1	4.0	4.1	4.3	4.3	4.1	4.3	4.1	4.3	4.1	4.3	4.1	4.3	4.1	4.3	4.1	4.3	4.1	4.3	4.1	4.3	4.1	.5	12.5



## GROUP D. SOUTHWESTERN RAILROADS.

Railway system and description of bond.	Date of maturity.	1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916
		1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916
ATCHISON, TOPEKA & SANTA FE.																		
Adj. g. 1905 4's	1905						9.8	7.8	6.1	4.8	4.3	4.3	4.3	4.5	4.4	4.2	4.3	4.6
Gen'l g. 1905 4's	1905						5.3	4.8	4.4	4.0	4.0	3.9	3.9	4.0	4.1	4.1	4.0	4.0
East Okla. div. 1st 4's	1928									1.1	1.3	1.1	1.2	1.7	1.3	1.2	1.3	1.4
CHICAGO, ROCK ISLAND & PACIFIC.																		
1917 6's	1917	4.3	4.6	4.5	4.6	4.2	4.1	4.2	3.8	3.8	3.6	3.6	3.6	3.5	3.8	3.8	4.0	4.2
Keokuk & D. M. 1st 1923 5's	1923	4.9	5.5	5.1	5.1	5.3	5.0	4.8	4.8	4.6	4.3	4.3	4.3	4.3	4.1	5.1	5.0	4.8
Burl. C. R. & Nor. 1934 g. 5's	1931	5.2	5.2	4.9	5.0	4.7	4.7	4.8	4.6	4.7	4.6	4.6	4.7	4.8	4.9	5.0	5.0	4.9
Gen'l. 1908 g. 4's	1908							3.8	3.7	3.8	3.7	3.6	3.6	3.9	3.8	4.0	4.2	4.1
Railroad 2002 4's	2002							4.7	5.1	5.5	4.9	5.2	6.0	6.1	5.0	5.3	5.1	5.7
COLORADO & SOUTHERN.																		
1st 4's	1929							5.2	4.9	4.5	4.9	5.1	4.5	4.6	5.1	4.8	4.2	4.3
KANSAS CITY & SOUTHERN.																		
1st 3's	1950							4.8	4.6	4.5	4.7	4.6	4.5	4.7	4.6	4.3	4.5	4.4
MISSOURI, KANSAS & TEXAS.																		
1st 1's	1900	5.4	5.3	5.0	5.2	5.0	4.8	4.9	4.8	4.6	4.3	4.4	4.1	4.1	4.1	4.0	4.0	4.2
2nd income 1's	1900	10.2	9.8	8.4	9.6	9.4	7.1	7.4	6.7	6.4	6.0	6.0	5.0	4.9	5.1	5.1	4.7	4.8
1st ext. 5's	1914							5.6	5.0	4.8	5.0	5.0	4.7	4.8	5.0	4.6	4.9	4.9
M. K. & T. of T. 1st 5's	1912							5.6	4.8	4.8	5.0	4.9	4.6	4.7	4.9	4.9	5.1	5.1
Kansas City & P. 1st 4's	1900							5.0	4.5	4.5	4.6	4.5	4.2	4.2	4.5	4.3	4.4	4.5
MISSOURI PACIFIC.																		
1st consol 6's	1920	5.5	5.6	5.5	5.9	6.6	6.4	7.2	7.5	6.0	4.9	4.8	4.3	4.2	4.5	4.3	4.0	4.1
Trust 5's	1917	5.6	5.6	5.9	5.7	6.2	6.6	8.3	8.0	7.2	5.3	5.4	4.6	4.5	4.7	4.5	4.1	4.6
Pac. of Mo. 1st ext. 4's	1938	4.1	4.2	4.1	4.2	4.1	3.9	4.0	4.0	3.9	3.7	3.7	3.7	3.8	3.9	4.0	4.1	4.0
St. Louis & Iron Mountain gen'l. 1's	1931	5.6	5.8	6.1	6.5	6.8	6.5	6.9	6.6	5.4	4.1	4.4	4.1	4.1	4.5	4.3	4.4	4.6
St. Louis & Iron Mountain stamp gn. 5's	1931														4.4	4.2	4.3	4.4
St. Louis & Iron Mountain unifying and ref. 1's	1929														4.4	4.2	4.3	4.4
1st coll. 5's	1920														4.4	4.6	4.5	4.8
Pac. of Mo. 2nd ext. 5's	1938														4.3	4.4	4.3	4.5

## SOUTHERN RAIL.

## ST. LOUIS &amp; SAN FRANCISCO.

## ST. LOUIS &amp; SOUTHWESTERN.

Quotations end February, 1915.

= No quotations in 1915 or in 1916.

[illegible]

## GROUP E.—SOUTHWESTERN RAILROADS.

Sheet No. 21.  
Railway credit—Exhibit No. 3, page 5.Page 8, 1915.  
Actual yields—Railroad bonds.

## SUMMARY OF AVERAGES, 1890-1914.

Name of railroad.	Num- ber of bonds.	1890 1891 1892 1893 1894 1895 1896 1897 1898 1899 1900 1901 1902 1903 1904 1905 1906 1907 1908 1909 1910 1911 1912 1913 1914																				Advance, 1900-1914.	Per cent.					
		Actual.																										
Chicago, Rock Island & Pacific.....	3	4.8	5.1	1.8	4.9	4.7	1.6	4.6	1.1	1.1	4.2	4.2	4.2	4.2	4.4	4.4	4.5	4.5	4.5	4.2	4.4	4.4	4.5	4.8	5.2	1.0	23.8	
Missouri, Kansas & Texas.....	2	7.8	7.6	6.7	7.4	7.2	6.0	6.2	5.8	5.5	5.2	5.2	4.6	4.5	4.6	4.6	4.4	4.3	4.6	4.6	4.3	4.5	4.5	4.6	4.9	5.3	.1	1.9
Missouri Pacific.....	4	5.2	5.3	5.4	5.6	5.9	6.6	6.5	5.6	4.6	4.6	4.2	4.2	4.1	4.1	4.1	4.2	4.6	4.8	4.4	4.5	4.6	4.8	5.1	5.5	.9	19.6	
Southern Pacific.....	8	5.5	5.6	5.6	5.9	6.1	5.8	5.9	5.8	5.4	4.8	4.9	4.6	4.7	4.7	4.5	4.6	4.8	4.7	4.7	4.6	4.8	4.9	4.9	.0	0.0		
St. Louis & San Francisco.....	2	5.3	5.6	5.5	5.8	6.5	5.5	5.6	5.2	4.9	4.6	4.5	4.2	4.2	4.4	4.2	4.4	4.8	4.9	4.3	4.5	4.5	4.5	5.2	5.0	.5	11.1	
Texas & Pacific.....	1	5.5	5.9	6.2	6.8	6.1	5.7	6.1	5.5	4.9	4.4	4.4	4.2	4.2	4.4	4.3	4.4	4.2	4.5	4.6	4.3	4.5	4.6	4.9	5.0	.6	13.6	
6 railroads (consolidated).....	20	5.6	5.7	5.6	5.9	6.0	5.6	5.9	5.7	5.2	4.7	4.7	4.4	4.4	4.5	4.5	4.3	4.4	4.7	4.7	4.4	4.6	4.6	4.7	5.0	5.1	.4	8.5

## SUMMARY OF AVERAGES, 1900-1914.

		1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	Advance, 1900-1914.	Per cent.	
Atchison, Topeka & Santa Fe.....	3	4.4	4.1	4.1	4.3	4.2	4.1	4.2	4.5	4.3	4.2	4.2	4.2	4.3	4.6	4.5	0.1	2.3	
Chicago, Rock Island & Pacific.....	4	4.1	4.1	4.1	4.3	4.2	4.1	4.1	4.4	4.4	4.2	4.3	4.4	4.4	4.8	5.1	1.0	24.4	
Colorado & Southern.....	1	5.2	4.9	5.1	4.5	4.6	5.1	4.8	4.2	4.5	4.2	4.3	4.4	4.8	4.9	1.0	-3	-5.8	
Kansas City Southern.....	1	4.7	4.6	4.5	4.5	4.7	4.6	4.3	4.5	4.7	4.6	4.3	4.5	4.8	4.8	0.0	0	0	
Missouri, Kansas & Texas.....	8	4.8	4.7	4.5	4.5	4.6	4.7	4.4	4.6	4.6	4.7	4.6	4.7	4.9	5.3	.0	0	0	
Missouri Pacific.....	4	4.8	4.7	4.4	4.2	4.3	4.7	4.7	4.6	4.6	4.7	4.8	4.8	4.8	4.8	.9	18.8	0	
Southern Pacific.....	12	4.8	4.5	4.5	4.6	4.6	4.5	4.8	4.5	4.7	4.6	4.6	4.7	4.8	4.8	.0	0	0	
St. Louis & San Francisco.....	2	4.5	4.4	4.6	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	.7	15.6	0	
St. Louis & Southwestern.....	2	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	.3	-5.4	0	
Texas & Pacific.....	1	4.4	4.3	4.3	4.5	4.4	4.3	4.3	4.5	4.6	4.5	4.7	4.8	4.9	5.2	.3	20.5	0	
10 railroads (consolidated).....	41	4.8	4.6	4.4	4.6	4.5	4.3	4.4	4.7	4.7	4.4	4.6	4.6	4.7	5.0	5.1	.3	6.3	0



Railroad.	Num- ber of bonds.	1800 1801 1802 1803 1804 1805 1806 1807 1808 1809 1900 1901 1902 1903 1904 1905 1906 1907 1908 1909 1910 1911 1912 1913 1914 1915 1916																							Advance, 1900-1916.					
		Actual.																								Per cent.				
Chicago, Rock Island & Pacific.....	3	4.8	5.1	4.8	4.9	4.7	4.6	4.4	4.4	4.2	4.2	4.2	4.2	4.4	4.4	4.4	4.5	4.5	4.2	4.4	4.4	4.4	4.5	4.8	5.2	7.2	7.6	3.4	81.0	
Missouri, Kansas & Texas.....	2	7.8	7.6	6.7	7.4	7.2	6.0	6.2	5.8	5.5	5.2	5.2	4.6	4.5	4.6	4.3	4.6	4.3	4.3	4.5	4.5	4.6	4.9	5.3	6.2	7.0	7.0	1.8	34.6	
Missouri Pacific.....	4	5.2	5.3	5.4	5.6	5.9	6.6	6.6	6.5	5.6	4.6	4.6	4.2	4.2	4.4	4.2	4.1	4.2	4.6	4.8	4.4	4.5	4.6	4.8	5.1	5.5	7.6	7.1	2.5	54.3
Southern Pacific.....	8	5.5	5.6	5.6	5.9	6.1	5.8	5.9	5.8	5.4	4.8	4.9	4.6	4.6	4.7	4.7	4.5	4.6	4.8	4.7	4.7	4.6	4.8	4.9	4.9	5.1	5.1	5.1	2.2	4.1
St. Louis & San Francisco.....	2	5.3	5.6	5.5	5.8	6.5	5.5	5.6	5.2	4.9	4.6	4.5	4.2	4.2	4.5	4.4	4.2	4.4	4.8	4.9	4.3	4.5	4.5	5.2	5.0	5.2	4.9	4.9	4.4	8.9
Texas & Pacific.....	1	5.5	5.9	6.2	6.8	6.1	5.7	6.1	5.5	4.9	4.4	4.4	4.2	4.2	4.4	4.3	4.1	4.2	4.5	4.6	4.3	4.5	4.5	4.6	4.9	5.0	5.3	5.1	7	15.9
6 railroads (consolidated).....	20	5.6	5.7	5.6	5.9	6.0	5.6	5.9	5.7	5.2	4.7	4.7	4.4	4.4	4.4	4.5	4.5	4.3	4.4	4.7	4.7	4.6	4.6	4.7	5.0	5.1	6.0	6.0	1.3	27.7

## SUMMARY OF AVERAGES 1800-1916.

	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	
Atchison, Topeka & Santa Fe.....	4.4	4.1	4.1	4.1	4.3	4.2	4.1	4.2	4.5	4.3	4.2	4.2	4.2	4.2	4.2	4.2	4.3	4.6	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	0.1
Chicago, Rock Island & Pacific.....	4.1	4.1	4.1	4.1	4.3	4.3	4.2	4.4	4.4	4.4	4.1	1.2	4.3	4.4	4.4	4.8	4.5	4.8	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	2.8
Colorado & Southern.....	5.2	4.9	4.5	4.9	5.1	4.5	4.6	5.1	4.8	4.2	4.3	4.3	4.3	4.4	4.8	4.9	5.1	4.9	5.1	4.9	5.1	4.9	5.1	4.9	5.1	4.9	5.1	4.9	5.1	4.9	5.1	4.9	5.1	4.9	5.1	4.9	5.1	4.9	-0.3
Kansas City Southern.....	4.8	4.6	4.5	4.7	4.6	4.5	4.5	4.6	4.7	4.6	4.3	4.5	4.4	4.5	4.8	4.9	5.1	4.9	5.1	4.9	5.1	4.9	5.1	4.9	5.1	4.9	5.1	4.9	5.1	4.9	5.1	4.9	5.1	4.9	5.1	4.9	5.1	4.9	1.1
Missouri, Kansas & Texas.....	5.3	4.7	4.6	4.8	4.7	4.4	4.5	4.6	4.7	4.4	4.6	4.6	4.7	4.5	4.6	4.6	4.7	4.9	5.3	6.4	8.0	7.7	51.9	39.6	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	4.2	2.7
Missouri Pacific.....	4.8	4.3	4.3	4.5	4.4	4.2	4.3	4.7	4.5	4.7	4.5	4.6	4.7	4.5	4.6	4.7	4.5	4.6	4.7	4.5	4.6	4.7	4.5	4.6	4.7	4.5	4.6	4.7	4.5	4.6	4.7	4.5	4.6	4.7	4.5	4.6	4.7	1.9	
Southern Pacific.....	4.8	4.5	4.5	4.7	4.6	4.4	4.5	4.8	4.6	4.7	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	2.2	
St. Louis & San Francisco.....	4.5	4.2	4.2	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.3	4.5	5.0	5.2	4.5	4.7	4.7	4.8	5.4	5.5	5.5	5.5	5.5	5.5	5.5	5.5	5.5	5.5	5.5	5.5	5.5	5.5	5.5	5.5	5.5	5.5	5.5	6.6	
St. Louis & Northwestern.....	5.6	4.7	4.5	4.8	4.7	4.4	4.5	5.0	5.0	4.6	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	4.7	1.2	
Texas & Pacific.....	4.4	4.3	4.3	4.5	4.4	4.3	4.3	4.5	4.6	4.5	4.3	4.5	4.6	4.5	4.6	4.5	4.6	4.5	4.6	4.5	4.6	4.5	4.6	4.5	4.6	4.5	4.6	4.5	4.6	4.5	4.6	4.5	4.6	4.5	4.6	4.5	4.6	1.3	
10 railroads (consolidate b).....	4.8	4.4	4.4	4.6	4.5	4.3	4.4	4.7	4.7	4.5	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	4.6	1.1	

## GROUP G.—RAILROADS OTHER THAN WESTERN AND SOUTHWESTERN.

[Authority: Financial Review.]

Page 10, 1915.  
Actual yields—Railroad bonds.

Sheet No. 23.  
Railwaycredit—Exhibit No. 3 page 7.

Date of ma- tu- rity.	1890 1891 1892 1893 1901 1902 1903 1904 1905 1906 1907 1908 1909 1910 1911 1912 1913 1914 1915 1916																												
	1890	1891	1892	1893	1894	1895	1896	1897	1898	1899	1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916		
<b>CHICAGO &amp; ALTON.</b>																													
Refunding 3's.....											3.3	3.5	3.7	3.9	3.8	3.8	4.0	4.3	4.1	4.1	4.1	4.4	4.5	4.7	5.2	5.4	6.1	5.7	
<b>CHICAGO AND EASTERN ILLINOIS.</b>																													
1st consol. 6's.....	1934	5.0	5.0	4.9	5.0	4.8	4.7	4.7	4.6	4.5	4.4	4.2	4.0	3.9	4.3	4.1	4.0	4.1	4.6	4.7	4.1	4.3	4.2	4.1	4.1	5.2	5.3	6.1	5.5
Genl. mtg. 5's.....	1937	5.2	5.3	5.0	5.2	5.1	5.1	5.0	4.7	4.3	4.3	3.9	3.8	4.2	4.1	3.9	4.1	4.1	4.4	4.3	4.1	4.3	4.3	4.4	4.9	5.8	8.3	6.4	
Registered 5's.....	1937										4.3	4.1	3.9	3.9	4.0	4.0	4.0	4.0	4.1	4.1	4.3	4.4	4.4	4.6	5.2	8.9	6.6		
Chicago & Ind. Coal Ry. 1st 5's.....	1936										4.5	4.0	3.8	4.1	4.2	4.0	4.1	4.5	4.6	4.1	4.3	4.4	4.4	4.7	8.6	28.0	21.7		
<b>ILLINOIS CENTRAL.</b>																													
1st 1951 g. 4's.....	1951	3.8	3.9	3.8	3.8	3.7	3.6	3.7	3.6	3.5	3.5	3.4	3.4	3.4	3.4	3.3	3.6	3.6	4.0	3.9	3.8	3.8	3.9	3.9	3.9	4.2	4.2	4.1	
1st 1951 g. 3's.....	1951	3.9	3.9	3.8	3.8	3.6	3.5	3.5	3.5	3.4	3.3	3.3	3.3	3.3	3.3	3.3	3.5	3.5	3.6	3.9	3.9	4.0	3.9	4.2	4.5	4.5	4.9	4.6	
Coll. tr. 1952 g. 4's.....	1952	4.0	4.3	4.0	4.0	4.0	3.8	4.0	3.9	3.9	3.8	3.8	3.8	3.8	3.8	3.8	3.8	3.8	4.1	4.1	4.0	4.0	4.1	4.1	4.1	4.6	4.9	4.6	
Lo. N. O. & T. 1953 g. 4's.....	1953	4.5	4.7	4.6	4.3	4.1	4.0	4.0	4.0	4.0	3.8	3.8	3.8	3.8	3.8	3.8	3.8	3.8	4.1	4.1	4.0	4.0	4.1	4.2	4.4	4.6	5.0	4.8	
Chic. St. L. & N. O. 1951 g. 5's.....	1951	4.3	4.5	4.3	4.3	4.3	4.2	4.2	4.1	4.0	3.9	3.9	3.8	3.8	3.8	3.8	3.8	3.8	4.0	4.0	4.0	4.0	4.2	4.2	4.5	4.5	4.6	4.6	
West Lines 1st 1951 g. 4's.....	1951						3.9	4.0	3.9	3.9	3.6	3.5	3.4	3.3	3.3	3.3	3.6	3.8	4.0	4.0	4.1	4.2	4.2	4.3	4.6	4.5	4.8	4.5	
Cauro Bridge 4's 1950.....	1950										3.7	4.0	4.3	3.5	3.7	4.0	4.3	3.8	3.9	4.0	4.0	4.1	4.2	4.3	4.4	4.6	4.8	4.5	
<b>WARASH.</b>																													
1st 5's.....	1939	5.0	5.4	4.8	5.0	4.8	4.7	4.8	4.8	4.5	4.3	4.2	4.1	4.1	4.2	4.2	4.1	4.2	4.6	4.3	4.4	4.5	4.6	4.8	4.9	4.9	4.7		
2d mtg. 5's.....	1939	6.7	6.8	6.3	7.0	7.2	7.1	7.2	7.2	6.1	5.4	5.0	4.5	4.5	4.7	4.6	4.6	4.7	5.2	5.6	4.8	5.0	5.1	5.1	5.3	5.3	5.4	5.1	
Deb. 2d S. B. 6's.....	1939	13.6	16.5	15.1	22.7	26.6	32.6	27.5	25.8	21.7	17.2	17.4	10.0	8.2	9.1	10.0	8.6	7.9	19.7	11.8	6.4	7.2	6.2	6.3	.....	.....	.....	.....	5.6

1 Inserted for continuity.

2 No quotations.

Railway credit Exhibit No. 3, page 8.

SUMMARY OF AVERAGES 1890-1914.

Name of railroad.	Num- ber of bonds.	1890 1891 1892 1893 1894 1895 1896 1897 1898 1899 1900 1901 1902 1903 1904 1905 1906 1907 1908 1909 1910 1911 1912 1913 1914 1915 1916																				Ad. proc. 1900-1911.		Advance, 1900-1916.								
																						Per cent.	Per cent.	Per cent.	Per cent.							
Chicago & Eastern Illi- nois.....	2	5.1	5.2	5.0	5.1	5.0	4.9	4.9	4.8	4.6	4.2	4.3	4.0	3.9	4.3	4.3	4.0	4.1	4.5	4.1	4.3	4.3	4.1	5.1	5.6	7.2	6.9	1.3	30.2	1.7	39.5	
Illinois Central.....	5	4.1	4.3	4.1	4.0	3.9	2.8	3.9	3.8	3.8	3.7	3.7	3.6	3.6	3.8	3.7	3.7	3.7	4.0	4.0	3.9	4.0	4.1	4.1	4.3	4.5	4.6	4.4	0.8	21.6	0.7	18.9
Wabash.....	2	5.8	6.0	5.6	6.0	6.0	5.9	6.0	6.0	5.3	4.7	4.6	4.3	4.3	4.5	4.4	4.4	4.5	4.9	5.1	4.6	4.7	4.8	4.9	5.1	5.1	5.2	4.9	0.5	10.9	0.3	6.5
3 railroads (consolidated).	9	4.7	4.8	4.6	4.7	4.6	4.5	4.6	4.5	4.3	4.0	4.0	3.8	3.8	4.0	4.0	3.9	4.0	4.3	4.1	4.1	4.2	4.3	4.3	4.7	4.9	5.3	4.9	0.9	22.5	0.9	22.5

SUMMARY OF AVERAGES 1900-1914.

Name of railroad.	Num- ber of bonds.	1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916	Advance, 1900-1914.		Advance, 1900-1916.		
																Actual.	Per cent.	Actual.	Per cent.				
Chicago & Alton.....	1	3.3	3.5	3.5	3.9	3.8	4.0	4.3	4.1	4.1	4.1	4.4	4.5	4.7	5.2	5.4	6.1	5.7	2.1	63.6	2.4	72.7	
Chicago & Eastern Illinois.....	4	4.3	4.0	3.9	4.1	4.2	4.0	4.1	4.1	4.1	4.0	4.0	4.1	4.1	4.1	4.9	6.2	12.8	10.1	1.9	44.2	5.8	134.9
Illinois Central.....	7	3.7	3.6	3.6	3.8	3.8	3.8	4.0	4.0	4.0	4.0	4.0	4.1	4.1	4.1	4.3	4.7	4.5	0.8	21.6	0.8	21.6	
Wabash.....	2	4.6	4.3	4.3	4.5	4.4	4.4	4.5	4.9	5.1	4.6	4.7	4.8	4.9	5.1	5.1	5.2	4.9	6.5	10.9	4.3	6.5	
4 railroads consolidated.	14	4.0	3.8	3.8	4.0	4.0	3.9	4.0	4.3	4.3	4.1	4.2	4.3	4.4	4.7	5.1	5.2	6.2	4.1	27.5	2.2	55.0	



Page 12, 1916.

Sheet No. 35.

Actual yield—weighted average.

Railway credit—Exhibit No. 3, page 12.

## SUMMARY, 1914.

## WESTERN GROUP.

Name of railroad.	Number of bonds.	Total par value.	Weighted average.
Chicago, Burlington & Quincy.....	6	\$115,991,000	4.3
Chicago, Milwaukee & St. Paul.....	6	92,700,000	4.3
Chicago & Northwestern Ry.....	10	102,372,000	4.3
Chicago, St. Paul, Minneapolis & Omaha.....	3	23,977,000	4.3
Great Northern.....	6	269,922,000	4.5
Minneapolis & St. Louis.....	3	26,176,000	6.9
Northern Pacific.....	7	193,732,000	4.4
Union Pacific.....	4	150,639,000	4.3
Composite average.....	45	975,509,000	4.5

## SOUTHWESTERN GROUP.

Atchison, Topeka & Santa Fe.....	3	\$211,583,000	4.4
Colorado & Southern.....	1	19,402,000	4.9
Kansas City Southern.....	1	30,000,000	4.8
Missouri, Kansas & Texas.....	5	31,258,000	5.6
Missouri Pacific.....	7	122,213,000	5.7
Southern Pacific.....	12	188,678,000	4.7
St. Louis & San Francisco.....	3	78,046,000	5.7
St. Louis & Southwestern.....	2	23,043,000	5.0
Composite average.....	34	707,223,000	5.0

## OTHER THAN WESTERN AND SOUTHWESTERN.

Chicago & Alton.....	1	\$45,350,000	5.4
Chicago & Eastern Illinois.....	4	28,758,000	6.0
Illinois Central.....	7	63,793,000	4.6
Wabash.....	2	47,900,000	5.0
Composite average.....	14	185,801,000	5.1

Page 13, 1916.

Sheet No. 36.

To precede Exhibit No. 4, page 2.

The preceding exhibits show a slight increase in the yield on western railroad bonds since 1900, while there is a decline compared to 1890. The issue, tersely stated, becomes whether the decline in the market price on railroad bonds, or, in other words, the increase in the yield is due to general financial conditions or to the facts peculiar to the railroad industry. If the pure money rate increases faster than the yield on any railroad bond, other factors unchanged, that would show the credit of the company in question had improved. On the other hand, if the pure money rate increases in a less degree than that of the given company, this would show that the credit of that company had declined. The test, the yard stick of the situation, is the pure money rate. This can be applied to any individual company or to any class of companies.

As previously stated, we have tried to secure the closest possible approximation to the pure money rate, eliminating factors, hazards, risks, personal equation, etc. In a time of war bonds of national governments fail to reflect the pure money rate, because the enormous increase in supply tends to lower prices and to increase the yields. The bonds of large municipalities furnish probably the closest approximation to the pure money rate on long-term obligations.

Page 14, 1916.

Sheet No. 53.  
To precede Exhibit No. 5, page 1.

The following tables present the yields upon some 237 municipal bonds issued by the 20 largest cities. The yields are computed for the years 1900 to 1914.<sup>1</sup> There are two methods available for computing averages to measure the credit of a municipality. One method consists in making an average of all issues in each year. In one of the tables, all averages are computed by this system with "no special issues selected." A second method consists in selecting through bonds only and figuring averages for the same bonds in all years. Both methods have been adopted and exactly the same results are reached by the two methods. A close examination of the yields on the bonds of each city shows that as a general rule all municipal bonds sell upon the basis of the credit of the municipality. All go up together and all go down together with few exceptions.

Turn now to page 25, 1916 edition, the wonderful uniformity of results shows conclusively that we are dealing with securities which closely approximate the pure money rate. Composite yields are brought forward for all of the 20 cities and again close scrutiny shows how uniform are the results. The tabulation of the yields of the first 10 cities and second 10 cities and the yields of 20 cities shows that the second 10 cities in 1900 were 0.2 lower in credit than the first 10. In the year 1914 there is only 0.1 difference. During the period 1900 to 1914 the first 10 cities have moved up 1; the second 10 cities 0.9.

Turning now to page 26, 1916 edition, we have computed the averages upon bonds which run throughout the entire period only. The summary of these yields appears on page 11, and the summary of averages is entered on page 12. It is demonstrated conclusively that all bonds by all methods of computation have advanced in yield 31 per cent during the 14 years 1900 to 1914 and 25 per cent during the period 1900 to 1916.

Page 15, 1916.

Actual yields—municipal bonds.

Sheet No. 52.  
Railway credit—Exhibit No. 5, page 3.

Exhibit No. 5 discloses the results of collecting the actual yields of the municipal bonds of 20 largest cities of the United States. All bonds of these 20 cities were collected from the quotation supplements of the Commercial and Financial Chronicle, with the following exceptions:

(a) Bonds subject to special conditions which rendered them less representative of municipal credit were omitted. These omissions include special assessment issues and premium bonds.

(b) In the case of the larger cities, such as New York, Chicago, Boston, Baltimore, Washington, Cleveland, Minneapolis, only bonds running through the period 1900 to 1914 were taken. Bonds maturing before 1914 were taken in the smaller cities other than above, because there was not a sufficient number of through bonds to make a representative collection.

Inasmuch as most bonds of municipalities reflect simply the credit of the cities, it follows that practically all bonds, both new issues and old issues, of a given city for a given year sell upon substantially the same yield. This fact is shown quite conclusively in the following pages. The actual yields were collected from the quotation supplements of the Commercial and Financial Chronicle monthly and averaged for the year. In cases where the yields were not given directly in the Chronicle the yields were computed from the prices.

In order better to present the representative character of the material, the exhibit states first the material, and then breaks up the material into groups.

Group A contains the average actual yields for each year in each city upon the basis of "no special issue selected" and the final averages, weighting each city equally.

Group B contains the actual yields of the through bonds for the 20 cities and the final averages, weighting each city equally.

Group C presents a summary of final averages showing the representative character of the material: (I) average first 10 cities, no special issue selected; (II) average second 10 cities, no special issue selected; (III) average 20 cities, no special issue selected; (IV) average 20 cities, through bonds only; (V) average all through bonds. Both the advance in yield and the percentage of advance is given for the year 1914 over 1900.

Group D<sup>2</sup> contains the actual yields from group A reduced to a relative basis by expressing the yields in percentages of the average for each city. The base 100 per cent is the average yield for the years 1900–1914 for each city.

<sup>1</sup> Now brought down to Dec. 31, 1916.<sup>2</sup> Not included in this extension of original exhibit.





2 Matured.

<sup>1</sup> No quotations.

Actual yields of bonds of largest cities: 1907-1914—Continued.

City.	Maturity.	1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916
<b>PITTSBURGH, PA.</b>																		
Funded debt, 7's.	1909	3.2	3.2	3.2	3.3	3.4	3.4	3.6	4.0	4.2	4.0							
Water, 6's.	1908	3.2	3.2	3.2	3.3	3.4	3.4	3.6	4.0	4.2								
Funded, 5's.	1913	3.1	3.1	3.2	3.3	3.4	3.4	3.6	4.0	4.1	3.9	4.0						
School, 4's.	1919	3.1	3.1	3.2	3.3	3.4	3.4	3.6										
County, 4's.	1916	3.1	3.1	3.2	3.3	3.4	3.4	3.5										
County, 4's.	1902-1909	3.1	3.1	3.2	3.3	3.4	3.4	3.5			3.9	3.9						
Refunding, 3's.	1915-1920	3.1	3.1	3.2	3.3	3.4	3.4	3.5	4.0	4.1	3.9	3.9						
Refunding, 3's.	1924	3.1	3.1	3.2	3.3	3.4	3.4	3.6	4.0	4.1	3.9	4.0	4.1	4.1	4.2	4.1	4.3	4.2
Do.	1903-1930	3.2	3.1	3.2	3.3	3.4	3.4	3.6	4.0	4.1	4.0	4.0	4.0	4.0	4.2	4.1	4.1	4.0
Park, 4's.	1925	3.2	3.1	3.2	3.3	3.4	3.4	3.6	4.0	4.1	4.0	4.0	4.0	4.0	4.2	4.1	4.1	4.0
Do.	1912-1927							3.8	3.8	4.0	3.9	4.0	4.0	4.0	4.2	4.1	4.1	4.0
Park, 4's.	1909-1938							3.8	4.0	4.0	4.0	4.0	4.0	4.0	4.2	4.1	4.2	4.1
Park, 4's.	1909-1935							4.0	4.0	4.0	3.9	4.0	4.0	4.0	4.2	4.1	4.1	4.0
Park, 4's.	1911-1940														4.2	4.1	4.1	4.0
Park, 4's.	1908-1927							3.8	4.0	4.0	3.8	4.0	4.0	4.0	4.2	4.1	(1)	(1)
Do.	1912-1939										4.0	4.0	4.0	4.0	4.2	4.1	4.1	4.0
Average		3.1	3.1	3.2	3.3	3.4	3.4	3.6	4.0	4.1	3.9	4.0	4.0	4.0	4.2	4.1	4.2	4.1
<b>DETROIT, MICH.</b>																		
Water, 7's.	1904	3.2	3.2	3.2	3.3	3.4	3.4	3.2	3.2									
Water, 6's.	1906	3.1	3.2	3.2	3.4	3.4	3.4	3.2	3.2									
Improvement, 4's.	1926	3.1	3.1	3.1	3.4	3.3	3.3	3.1	3.2	3.5	3.3	3.6	3.8	4.0	4.1	4.1	4.2	3.9
Public improvement, 3.65's.	1918	3.1	3.1	3.2	3.4	3.3	3.3	3.1	3.2	3.5	3.3	3.6	3.8	4.0	4.0	4.1	4.2	3.9
Sewer, 4's.	1922	3.1	3.1	3.2	3.4	3.3	3.3	3.1	3.2	3.5	3.3	3.6	3.8	4.0	4.0	4.1	4.2	3.9
Public improvement, 3's.	1916	3.1	3.1	3.1	3.4	3.3	3.3	3.1	3.2	3.5	3.3	3.6	3.8	4.0	4.1	4.1	4.2	3.9
Public improvement, 3's.	1930	3.1	3.1	3.2	3.4	3.3	3.3	3.1	3.2	3.5	3.3	3.6	3.8	4.0	4.1	4.1	4.2	3.9
Park improvement, 3's.	1917																	
Boulevard, 4's.	1944																	
Average		3.1	3.1	3.2	3.5	3.5	3.5	3.1	3.2	3.5	3.3	3.6	3.8	4.0	4.1	4.1	4.2	3.9
<b>BUFFALO, N. Y.</b>																		
Water, 7's.	1908	3.1	3.2	3.2														
Park, 7's.	1916	3.1	3.2	3.2	3.4	3.4	3.4	3.4	3.5	3.8	4.0	3.8	4.0	4.0	4.1	4.3	4.2	3.9
Do.	1924	3.1	3.2	3.2	3.4	3.4	3.4	3.4	3.5	3.8	4.0	3.8	4.0	4.0	4.1	4.3	4.2	3.9
Park, 6's.	1924-1925	3.1	3.2	3.2	3.4	3.4	3.4	3.4	3.5	3.8	4.0	3.8	4.0	4.0	4.1	4.3	4.2	3.9
Tax loan, 4's.	1900	3.1	3.1	3.2	3.4	3.4	3.4	3.4	3.5	3.8	4.0	3.8	4.0	4.0	4.1	4.3	4.2	3.9
Sewer, 4's.	1913	3.1	3.1	3.2	3.4	3.4	3.4	3.4	3.5	3.8	4.0	3.8	4.0	4.0	4.1	4.2	4.2	3.9
Chicago fire relief fund, 3's.	1917	3.1	3.1	3.2	3.4	3.4	3.4	3.4	3.5	3.8	4.0	3.8	4.0	4.0	4.1	4.3	4.1	4.2
Grade crossing, 3's.	1917	3.1	3.1	3.2	3.4	3.4	3.4	3.4	3.5	3.8	4.0	3.8	4.0	4.0	4.1	4.3	4.1	4.2
Park, 3's.	1927	3.1	3.1	3.2	3.4	3.4	3.4	3.4	3.5	3.8	4.0	3.8	4.0	4.0	4.1	4.3	4.1	3.9

1900-1911		1	2	3	4	5	6	7	8	9	10	11	12
Refunding, 3½'s.	1903	3.1	3.2	3.4	3.4	3.5	3.8	4.0	3.8	4.0	4.1	4.2	3.9
Tax loan, 3½'s.	1903	3.1	3.2	3.4	3.4	3.5	3.8	4.0	3.8	4.0	4.1	4.2	3.9
Grade ex. ssing, 3½'s.	1913	3.0	3.1	3.2	3.4	3.4	3.6	3.8	4.0	3.8	4.0	4.1	4.2
Road, 3's.	1910-1919	3.0	3.1	3.2	3.4	3.4	3.6	3.8	4.0	3.8	4.0	4.1	4.2
Water, 3's.	1907-1935	3.0	3.1	3.2	3.4	3.4	3.6	3.8	4.0	3.8	4.0	4.1	4.2
School, 4's.	1929	3.0	3.1	3.2	3.4	3.4	3.6	3.8	4.0	3.8	4.0	4.1	4.2
Water, refunding, 4's.	1919-1929	3.0	3.1	3.2	3.4	3.4	3.6	3.8	4.0	3.8	4.0	4.1	4.2
Water, 4's.	1960	3.0	3.1	3.2	3.4	3.4	3.6	3.8	4.0	3.8	4.0	4.1	4.2
School, 4½'s.	1933	3.0	3.1	3.2	3.4	3.4	3.6	3.8	4.0	3.8	4.0	4.1	4.2
School, refunding, 4½'s.	1911-1933	3.0	3.1	3.2	3.4	3.4	3.6	3.8	4.0	3.8	4.0	4.1	4.2
Park, 4½'s.	1962	3.0	3.1	3.2	3.4	3.4	3.6	3.8	4.0	3.8	4.0	4.1	4.2
Water, refunding, 4's.	1911-1930	3.0	3.1	3.2	3.4	3.4	3.6	3.8	4.0	3.8	4.0	4.1	4.2
Average.		3.1	3.1	3.2	3.4	3.4	3.5	3.8	4.0	3.8	4.0	4.1	4.2
SAN FRANCISCO, CAL.													
Park, 6's.	1904	3.3	3.3	3.3	3.7	4.0	3.5	4.1	4.3	4.0	4.3	4.6	4.3
Playground, 2½'s.	1905-1944	3.3	3.3	3.3	3.7	4.0	3.5	4.1	4.3	4.0	4.3	4.6	4.3
Water, 5's.	1913-1955	3.3	3.3	3.3	3.7	4.0	3.5	4.1	4.3	4.0	4.3	4.6	4.3
Municipal, 5's.	1917-1960	3.3	3.3	3.3	3.7	4.0	3.5	4.1	4.3	4.0	4.3	4.6	4.3
Exposition, 5's.	1915-1939	3.3	3.3	3.3	3.7	4.0	3.5	4.1	4.3	4.0	4.3	4.6	4.3
Average.		3.3	3.3	3.3	3.7	4.0	3.5	4.1	4.3	4.0	4.3	4.6	4.3
MILWAUKEE, WIS.													
General, 7's.	1901	3.2	3.2	3.2	3.5	3.6	3.5	3.8	4.0	3.9	4.1	4.3	4.0
Water, 7's.	1902	3.2	3.2	3.2	3.5	3.6	3.5	3.8	4.0	3.9	4.1	4.3	4.0
Water, 5's.	1907	3.2	3.1	3.3	3.5	3.6	3.5	3.8	4.0	3.9	4.1	4.3	4.0
Do.	1916	3.2	3.1	3.3	3.5	3.6	3.5	3.8	4.0	3.9	4.1	4.3	4.0
Library and museum, 5's.	1909-1917	3.2	3.1	3.3	3.5	3.6	3.5	3.8	4.0	3.9	4.1	4.3	4.0
Water, 4's.	1906-1925	3.2	3.1	3.3	3.5	3.6	3.5	3.8	4.0	3.9	4.1	4.3	4.0
Sewer, 3½'s.	1902-1921	3.2	3.1	3.3	3.5	3.6	3.5	3.8	4.0	3.9	4.1	4.3	4.0
Viaduct, 4's.	1907-1926	3.2	3.1	3.3	3.5	3.6	3.5	3.8	4.0	3.9	4.1	4.3	4.0
Waterworks, 4½'s.	1932	3.2	3.1	3.3	3.5	3.6	3.5	3.7	4.0	4.1	4.3	4.6	4.0
Average.		3.2	3.1	3.3	3.5	3.6	3.5	3.7	4.0	4.1	4.3	4.6	4.0
CINCINNATI, OHIO.													
Hospital, 7's.	1906	3.2	3.2	3.3	3.5	3.6	3.6	3.4	3.8	3.8	3.9	3.8	3.5
Funding, 7's.	1904	3.2	3.2	3.3	3.5	3.6	3.6	3.4	3.8	3.8	3.9	3.8	3.5
Cincinnati Street Railway, 7's.	1908	3.2	3.2	3.3	3.5	3.6	3.6	3.4	3.8	3.8	3.9	3.8	3.5
Cincinnati Street Railway, 6's.	1906	3.2	3.2	3.3	3.5	3.6	3.6	3.4	3.8	3.8	3.9	3.8	3.5
Do.	1909	3.2	3.2	3.3	3.5	3.6	3.6	3.4	3.8	3.8	3.9	3.8	3.5
Sewer, 5's.	1909-1937	3.2	3.2	3.3	3.5	3.6	3.6	3.4	3.8	3.8	3.9	3.8	3.5
Construction, 4's.	1930	3.2	3.2	3.3	3.5	3.6	3.6	3.4	3.8	3.8	3.9	3.8	3.5
Construction, 4's.	1931	3.2	3.2	3.3	3.5	3.6	3.6	3.4	3.8	3.8	3.9	3.8	3.5
Do.	1941	3.2	3.2	3.3	3.5	3.6	3.6	3.4	3.8	3.8	3.9	3.8	3.5
Construction, 3.65's.	1957	3.2	3.2	3.3	3.5	3.6	3.6	3.4	3.8	3.8	3.9	3.8	3.5

1 No quotations.



Actual yields of bonds of largest cities: 1907-1914 Continued.

City.	Maturity.	1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916
CINCINNATI, OHIO—continued.																		
Waterworks, 3½'s.....	1938	3.2	3.2	3.2	3.4	3.5	3.4	3.6	3.8	3.7	3.8	3.9	3.9	3.8	3.9	3.8	3.8	3.5
Extension, 3½'s.....	1940	3.2	3.2	3.2	3.4	3.5	3.4	3.4										
Waterworks, 7's.....	1939	3.1	2.9	3.0	3.2	3.3	3.2	3.5	3.7	3.7	3.8	3.9	3.9	3.8	3.9	3.8	3.8	3.5
Refunds, 3's.....	1952			3.2	3.4	3.5	3.4	3.3	3.7	3.7	3.8	3.9	3.9	3.8	3.9	3.8	3.8	3.5
Viaduct, 4's.....	1934					3.4		3.6	3.7	3.7	3.8	3.9	3.9	3.8	3.9	3.8	3.8	3.5
Waterworks, 3½'s.....	1945						3.1	3.6	3.7	3.7	3.8	3.9	3.9	3.8	3.9	3.8	3.8	3.5
Refunds, 7's.....	1956							3.7	3.7	3.7	3.8	3.9	3.9	3.8	3.9	3.8	3.8	3.5
Park, 4's.....	1949										3.8	3.9	3.9	3.8	3.9	3.8	3.8	3.5
Street, 4's, 4½'s.....	1932													4.2	4.2	4.2	4.0	4.0
Street, 4½'s.....	1943													4.3	4.2	4.2	4.2	4.0
Park, 4½'s.....	1953													4.3	4.2	4.2	4.2	4.0
Average.....		3.2	3.2	3.2	3.4	3.5	3.4	3.5	3.8	3.7	3.8	3.9	3.9	3.8	4.0	3.9	3.9	3.6
NEWARK, N. J.																		
Water, 7's.....	1905																	
Corporate, 6's.....	1908	3.1	3.1	3.2	3.3	3.5	3.4	3.7	3.9	4.1								
Corporate, 5's.....	1910	3.1	3.1	3.2	3.3	3.5	3.4											
Water, 1's.....	1915	3.1	3.1	3.2	3.3	3.5	3.4	3.6	3.9	4.0	3.8	3.9	4.0	4.0	4.3	4.2	(1)	(1)
Market, 4's.....	1911	3.1	3.1	3.1														
Refunding, 4's.....	1923	3.1	3.1	3.2	3.3	3.4	3.4	3.6	3.9	4.0	3.8	3.9	4.0	4.0	4.3	4.2	4.2	4.0
Water, 4's.....	1922	3.1	3.1	3.2	3.3	3.4												
Library, 4's.....	1927	3.1	3.1	3.1														
Street improvements, 4's.....	1906	3.1	3.1	3.2	3.3	3.4	3.4	3.4										
Street improvements, 3½'s.....	1929	3.1	3.1	3.2	3.3	3.4	3.4	3.6	3.9	4.0	3.8	3.9	4.0	4.0	4.3	4.2	4.2	4.0
High school, 3½'s.....	1917	3.1	3.1	3.2	3.3	3.4	3.4	3.6	3.9	4.0	3.8	3.9	4.0	4.0	4.3	4.2	4.2	4.0
Sewer, 4½'s.....	1934						3.1	3.6	3.9	4.0	3.8	3.9	4.0	4.0	4.3	4.2	4.2	4.0
Track, elevated, 3½'s.....	1954					3.4	3.4	3.6	3.9	4.0	3.8	3.9	4.0	4.0	4.3	4.2	4.2	4.0
School house, 4's.....	1949-1959											3.9	4.0	4.0	4.3	4.2	4.2	4.0
Passaic Valley sewer, 4's.....	1951-1961											3.9	4.0	4.0	4.3	4.2	4.2	4.0
Funding, 4½'s.....	1944													4.0	4.3	4.2	4.2	4.0
Average.....		3.1	3.1	3.2	3.3	3.4	3.4	3.6	3.9	4.0	3.8	3.9	4.0	4.0	4.3	4.2	4.2	4.0
NEW ORLEANS, LA.																		
P. S. & G. S., 7's.....	1922	4.3	4.3	4.2	4.1			4.4	4.5	4.8	4.9	4.7	4.4	4.6	6.1	5.8	6.1	4.7
Constitutional, 4's.....	1942	3.6	3.6	3.6	3.6	3.6	3.6	3.7	3.9	3.9	3.8	4.0	4.0	4.1	4.4	4.3	4.4	4.2
Improvement, 4's.....	1950		3.7	3.8	3.7	3.7	3.7						4.1	4.2	4.5	4.4	4.6	4.6
Judicial EXP., 4's.....	1923		4.0	4.1	4.0	4.0	4.0											
Funding, 4's.....	1948							4.2	4.3	4.6	4.3	4.6	4.4	4.6	5.2	5.3	5.1	4.9
Water and sewer, 4's.....	1950							3.9	4.1	4.2	4.0	4.1						

1942	Public improvement, 4's.....															
	4.0	3.9	3.9	3.9	3.8	3.8	3.8	4.1	4.2	4.4	4.3	4.4	4.3	4.4	4.4	4.6
Average.....																
WASHINGTON, D. C.																
1924																
Funding, 3.65's.....	2.4	2.2	2.2	2.4	2.6	2.6	2.6	2.6	2.7	2.8	3.0	3.1	3.1	3.1	3.1	3.1
LOS ANGELES, CAL.																
School, 7's.....	3.8	3.8	3.5	3.6	3.7											
School, 6's.....	3.8	3.8	3.5	3.6	3.6	3.5	3.5	3.9	4.0	4.3	4.0	4.3	4.3	4.4	4.7	4.5
School, 4's.....	3.6	3.6	3.4	3.6	3.6	3.5	3.5	3.9	4.0	4.3	4.0	4.3	4.3	4.4	4.7	4.5
School, 1's.....	3.5	3.5	3.4	3.6	3.6	3.5	3.5	3.9	4.0	4.3	4.0	4.3	4.3	4.4	4.7	4.5
School, 3's.....	3.5	3.5	3.5	3.6	3.6	3.6	3.6	3.9	4.0	4.3	4.0	4.3	4.3	4.4	4.7	4.5
School, 3's.....	3.5	3.6	3.5	3.6	3.6	3.6	3.6	3.9	4.0	4.3	4.0	4.3	4.3	4.4	4.7	4.5
High school, 3's.....		3.3	3.3	3.6	3.6	3.7	3.7	3.9	4.0	4.3	4.0	4.3	4.3	4.4	4.7	4.5
Water, 3's.....						3.7	3.7	3.9	4.0	4.3	4.0	4.3	4.3	4.4	4.7	4.5
Water, 1's.....						3.7	3.7	3.9	4.0	4.3	4.0	4.3	4.3	4.4	4.7	4.5
Owens River, 4's.....																
Harbor Improvement, 4's.....																
Electric Plant, 4's.....																
1912-1951																
Average.....	3.6	3.7	3.4	3.6	3.6	3.6	3.6	3.9	4.0	4.3	4.0	4.3	4.3	4.4	4.7	4.5
MINNEAPOLIS, MINN.																
1905																
Bridge, 8's.....	3.2	3.2	3.3	3.5	3.5	3.4										
Park, 9's.....	3.2	3.2	3.3	3.5	3.5	3.5	3.5	3.7	4.0	3.9	3.8	4.0	4.1	4.1	4.2	4.2
Perm. improvements, 4's.....	3.2	3.2	3.3	3.5	3.5	3.5	3.5	3.7	4.0	3.9	3.8	4.0	4.1	4.1	4.3	4.2
School, 1's.....	3.2	3.2	3.3	3.5	3.5	3.5	3.5	3.6								(1)
1919																
Perm. improvement, 4's.....	3.2	3.2	3.2	3.5	3.5											
School, 4's.....	3.2	3.2	3.2	3.5	3.5	3.5	3.5	3.7	4.0	3.9	3.8	4.0	4.1	4.1	4.3	4.2
School, 4's.....	3.2	3.2	3.3	3.5	3.5	3.5	3.5	3.7	4.0	3.9	3.8	4.0	4.1	4.1	4.3	4.2
School, 3's.....	3.2	3.2	3.3	3.5	3.5	3.5	3.5	3.8	3.9	3.9	3.9	4.0	4.1	4.1	4.3	4.2
School, 4's.....	3.2	3.2	3.3	3.5	3.5							4.0	4.1	4.1	4.3	4.2
Perm. improvement, 1's.....												4.0	4.1	4.1	4.3	4.2
Water, 3's.....												4.0	4.0	4.1	4.3	4.2
Improvement, 4's.....												4.0	4.0	4.1	4.3	4.2
Average.....	3.2	3.2	3.3	3.5	3.5	3.5	3.5	3.7	4.0	3.9	3.8	4.0	4.1	4.1	4.3	4.2
JERSEY CITY, N. J.																
1900																
Morgan Street Dock, 7's.....	3.6	3.9	4.0													
Water, 7's.....	3.7	3.9	4.0													
Do.....	3.7	3.9	4.0	4.0												
Imp. Gen'l, 7's.....	3.7	3.9	4.0	4.0	4.0			4.1	4.2	4.6						
Water, 7's.....	3.7	3.9	4.0	4.0	4.0	4.0	4.0	4.1	4.2	4.5	3.9	4.1	4.2	4.3	4.2	
Do.....	3.7	3.9	4.0	4.0	4.0	4.0	4.0	4.1	4.2	4.5	3.9	4.1	4.2	4.3	4.2	

† No quotations.





No quotation.

is found in the

## Actual yields of bonds of largest cities: 1901-1914 Continued.

## GROUP "C.B."

City.	Maturity.	1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916
NEW YORK, N. Y.																		
Park 3½'s.....	1916	3.0	3.1	3.2	3.3	3.4	3.5	3.7	4.2	4.2	4.0	4.2	4.1	4.2	4.4	4.1	(1)	(1)
Exempt 3½'s.....	1915	3.0	3.1	3.2	3.3	3.4	3.5	3.7	4.2	4.2	4.0	4.2	4.1	4.2	4.4	4.1	(1)	(2)
Exempt 3½'s.....	1922	3.0	3.1	3.2	3.3	3.4	3.5	3.7	4.2	4.1	4.0	4.2	4.1	4.2	4.4	4.2	4.2	4.0
Dock 3½'s.....	1927	3.0	3.1	3.2	3.3	3.4	3.5	3.7	4.2	4.1	4.0	4.2	4.1	4.2	4.4	4.2	4.2	4.0
Street 3½'s.....	1916	3.0	3.1	3.2	3.3	3.4	3.5	3.7	4.3	4.1	4.0	4.2	4.1	4.2	4.4	4.2	(1)	(1)
Dock 3½'s.....	1924	3.0	3.1	3.2	3.3	3.4	3.5	3.8	4.2	4.1	4.0	4.2	4.1	4.2	4.1	4.2	4.3	4.0
Average.....		3.0	3.1	3.2	3.3	3.4	3.5	3.8	4.2	4.1	4.0	4.2	4.1	4.2	34.3	4.2	4.2	4.0
CHICAGO, ILL.																		
River Improvements 4's.....	1915	3.1	3.1	3.3	3.5	3.7	3.6	3.8	3.9	3.9	3.9	4.1	4.1	4.2	4.7	4.2	(1)	(2)
World's Fair 4's.....	1921	3.2	3.2	3.3	3.2	3.7	3.7	3.7	3.9	3.9	3.9	4.1	4.0	4.2	4.3	4.3	4.2	4.0
Sanitary District 4½'s.....	1915	3.5	3.5	3.5	3.7	3.8	3.8	3.9	4.0	4.0	3.9	4.2	4.2	4.2	4.4	4.3	4.2	(2)
Sanitary District 3½'s.....	1918	3.3	3.4	3.5	3.7	3.8	3.8	3.9	4.0	4.0	3.9	3.7	3.8	3.7	4.4	4.3	4.1	4.0
Average.....		3.3	3.3	3.4	3.6	3.8	3.7	3.9	4.0	4.0	3.9	4.1	4.1	4.1	4.5	4.3	4.2	4.0
PHILADELPHIA, PA.																		
3's.....	1900-1919	2.9	2.9	3.1	3.3	3.4	3.4	3.4	3.7	3.7	3.7	3.8	3.9	4.0	4.2	4.0	4.1	3.9
Water 3½'s.....	1931	3.1	3.1	3.1	3.2	3.4	3.4	3.4	3.7	3.7	3.7	3.9	3.9	4.0	4.2	4.0	4.1	3.9
Average.....		2.9	3.0	3.1	3.3	3.4	3.4	3.4	3.7	3.8	3.7	3.9	3.9	4.0	4.2	4.0	4.1	3.9
ST. LOUIS, MO.																		
Renewal 4's.....	1918	3.1	3.1	3.2	3.5	3.5	3.3	3.4	3.7	3.8	3.8	4.0	4.0	3.9	4.1	4.0	4.1	3.9
Renewal 3.65's.....	1907-1927	3.1	3.1	3.2	3.5	3.5	3.4	3.7	3.9	4.0	3.8	3.9	4.0	4.0	4.1	3.9	4.2	4.0
Average.....		3.1	3.1	3.2	3.5	3.4	3.4	3.6	3.8	3.9	3.8	4.0	4.0	4.0	4.1	4.0	4.2	4.0
BOSTON, MASS.																		
Water 4's.....	1919	3.1	3.1	3.2	3.4	3.4	3.4	3.6	3.9	3.8	3.8	4.0	3.9	3.9	4.2	4.1	4.2	4.0
Park 4's.....	1920	3.1	3.1	3.2	3.4	3.4	3.4	3.6	3.9	3.8	3.8	4.0	3.9	3.9	4.2	4.1	4.2	4.0
Street 4's.....	1916	3.1	3.1	3.2	3.4	3.4	3.4	3.6	3.9	3.8	3.8	4.0	3.9	3.9	4.2	4.1	4.1	4.0
Water 3½'s.....	1917	3.1	3.1	3.2	3.4	3.4	3.4	3.6	3.9	3.8	3.8	4.0	3.9	3.9	4.2	4.1	4.4	(1)
Average.....		3.1	3.1	3.2	3.4	3.4	3.4	3.6	3.9	3.8	3.8	4.0	3.9	3.9	4.2	4.1	4.2	4.0

CLEVELAND, OHIO.		1918	3.2	3.2	3.4	3.7	3.7	3.6	3.7	3.8	3.9	3.8	3.9	3.9	4.0	3.9	3.9	4.2
Library, 5's.....		1931	3.2	3.2	3.4	3.7	3.7	3.6	3.7	4.0	4.0	3.8	3.9	3.9	4.0	3.8	3.9	3.5
Park, 4's.....																		
Average.....			3.2	3.2	3.4	3.7	3.7	3.6	3.7	3.9	4.0	3.8	3.9	3.9	4.0	3.9	3.9	3.9
BALTIMORE, MD.																		
Funding, 5's.....		1916	3.0	3.0	3.0	2.9	3.1	3.1	3.5	4.0	3.9	3.9	4.1	4.1	4.3	4.2	(1)	(1)
Water, 4's.....		1926	3.1	3.2	3.0	3.0	3.1	3.0	3.3	3.8	3.8	3.7	4.0	3.9	4.0	4.4	4.2	4.0
Do.....		1925	3.1	3.1	2.9	2.9	3.1	3.0	3.3	3.9	3.7	4.0	3.9	4.1	4.0	4.3	(1)	(1)
Consolidated, 3½'s.....		1930	2.9	2.9	2.9	2.9	3.0	3.1	3.3	3.7	3.7	3.5	3.9	4.0	4.2	4.2	4.3	4.1
Do.....		1910	2.9	2.9	2.9	3.0	3.0	3.1	3.3	3.6	3.6	3.5	3.8	3.9	4.1	4.2	4.1	4.0
Do.....		1915	3.0	3.0	2.9	3.0	3.1	3.1	3.2	3.6	3.6	3.5	3.8	3.9	4.2	4.2	4.1	4.0
West Maryland, 3½'s.....		1927	3.2	3.2	3.1	3.2	3.2	3.2	3.4	3.7	4.1	4.1	4.3	4.4	4.6	4.7	5.5	5.1
Average.....			3.0	3.0	3.0	3.0	3.1	3.1	3.3	3.7	3.8	3.7	4.0	4.0	4.1	4.2	4.3	4.2
PITTSBURGH, PA.		1933-1930	3.2	3.1	3.2	3.3	3.4	3.4	3.6	4.0	4.1	3.9	4.0	4.1	4.1	4.2	4.1	4.3
3½'s.....																		
DETROIT, MICH.																		
Public improvement, 3.65's.....		1918	3.1	3.1	3.2	3.4	3.3	3.1	3.2	3.5	3.5	3.3	3.6	3.8	4.0	4.1	4.1	4.2
Sewer, 4's.....		1922	3.1	3.1	3.2	3.4	3.3	3.1	3.2	3.5	3.5	3.3	3.6	3.8	4.0	4.0	4.1	4.2
Chicago fire relief fund, 3½'s.....		1917	3.1	3.1	3.2	3.4	3.3	3.1	3.2	3.5	3.5	3.3	3.6	3.8	4.0	4.1	4.1	4.2
Park, 3½'s.....		1927																
Average.....			3.1	3.1	3.2	3.4	3.3	3.1	3.2	3.5	3.5	3.3	3.6	3.8	4.0	4.1	4.1	4.2
BUFFALO, N. Y.		1924-1925																
Park, 7's.....		1924	3.1	3.2	3.2	3.4	3.4	3.4	3.5	3.8	4.0	3.8	4.0	4.0	4.1	4.3	4.2	3.9
Park, 6's.....		1917	3.1	3.1	3.2	3.4	3.4	3.4	3.5	3.8	4.0	3.8	4.0	4.0	4.1	4.3	4.2	3.9
Chicago fire relief fund, 3½'s.....		1927	3.1	3.1	3.2	3.4	3.4	3.4	3.5	3.8	4.0	3.8	4.0	4.0	4.1	4.3	4.1	4.2
Park, 3½'s.....																		
Average.....			3.1	3.2	3.2	3.4	3.4	3.4	3.5	3.8	4.0	3.8	4.0	4.0	4.1	4.3	4.1	4.2
SAN FRANCISCO, CAL.		1904	3.3	3.3	3.3	3.7	4.0											
Park, 6's.....		1905-1944																
Playground, 3½'s.....																		
Average.....			3.3	3.3	3.3	3.7	4.0	3.4	3.5	4.1	4.3	4.0	4.3	4.4	4.4	4.8	4.6	4.3
MILWAUKEE, WIS.																		
Library and museum, 5's.....		1900-1917	3.2	3.1	3.3	3.5	3.6	3.5	3.6	4.0	4.0	3.9	4.1	4.0	4.1	4.3	4.2	4.0

<sup>a</sup> Changes produced by averages based on fewer bonds.

<sup>b</sup> Bond matured.

<sup>c</sup> No quotations.



Actual yields of bonds of largest cities: 1907-1914—Continued.

GROUP "B" Continued.

City.	Maturity.	1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916
CINCINNATI, OHIO.																		
Construction, 4's.	1941	3.2	3.2	3.3	3.4	3.5	3.4	3.5	3.5	3.7	3.7	3.9	3.9	3.7	3.9	3.8	3.7	3.5
Construction, 3 65's.	1937	3.2	3.2	3.2	3.4	3.5	3.4	3.5	3.8	3.7	3.8	3.9	3.9	3.9	3.9	3.8	3.8	3.5
Waterworks, 3 7's.	1938	3.2	3.2	3.2	3.4	3.5	3.4	3.5	3.6	3.7	3.7	3.9	3.9	3.9	3.9	3.8	3.8	3.5
Waterworks, 3's.	1939	3.1	2.9	3.0	3.2	3.2	3.2	3.2	3.3	3.7	3.8	3.9	3.9	3.9	3.9	3.8	3.8	3.5
Average.		3.2	3.1	3.2	3.4	3.4	3.4	3.4	3.6	3.7	3.8	3.9	3.9	3.8	3.9	3.8	3.8	3.5
NEWARK, N. J.																		
Water, 4's.	1915	3.1	3.1	3.2	3.3	3.5	3.4	3.5	3.9	4.0	3.8	3.9	4.0	4.0	4.3	4.2	(1)	(1)
Refunding, 4's.	1923	3.1	3.1	3.2	3.3	3.4	3.4	3.5	3.9	4.0	3.8	3.9	4.0	4.0	4.3	4.2	4.2	4.0
Refund, 3's.	1929	3.1	3.1	3.2	3.3	3.4	3.4	3.5	3.9	4.0	3.8	3.9	4.0	4.0	4.3	4.2	4.2	4.0
High School, 3.35's.	1917	3.1	3.1	3.2	3.3	3.4	3.4	3.5	3.9	4.0	3.8	3.9	4.0	4.0	4.3	4.2	4.2	(1)
Average.		3.1	3.1	3.2	3.3	3.4	3.4	3.4	3.6	3.9	4.0	3.8	3.9	4.0	4.3	4.2	4.2	4.0
NEW ORLEANS, LA.																		
D. S. & G. S., 7's.	1922	4.5	4.3	4.2	4.1	4.0	4.0	4.1	4.5	4.8	4.9	4.7	4.1	4.6	6.1	5.8	6.1	4.7
Constitutional, 4's.	1942	3.6	3.6	3.6	3.6	3.6	3.6	3.7	3.9	3.9	3.8	4.0	4.0	4.1	4.4	4.3	4.1	4.2
Average.		4.0	4.0	3.9	3.9	3.8	3.8	4.1	4.2	4.4	4.4	4.1	4.2	4.4	5.3	5.1	5.3	4.5
WASHINGTON, D. C.																		
Funding, 3.65's.	1924	2.4	2.2	2.2	2.4	2.5	2.5	2.5	2.7	2.8	3.0	3.1	3.1	3.1	3.1	3.1	3.2	3.1
LOS ANGELES, CAL.																		
School, 4's.	1936	3.6	3.6	3.4	3.6	3.6	3.6	3.5	3.9	4.0	4.0	4.3	4.3	4.1	4.7	4.5	(1)	(1)
School, 4's.	1930-1939	3.5	3.6	3.4	3.5	3.5	3.5	3.5	3.9	4.0	4.0	4.3	4.3	4.4	4.7	4.5	(1)	(1)
Average.		3.6	3.6	3.4	3.6	3.5	3.5	3.5	3.9	4.0	4.0	4.3	4.3	4.4	4.7	4.5	(1)	(1)
MINNEAPOLIS, MINN.																		
Permanent & Imprt., 4's.	1921	3.2	3.2	3.3	3.5	3.5	3.5	3.5	4.0	3.9	3.8	4.0	4.1	4.1	4.3	4.2	(1)	(1)
School, 4's.	1927	3.2	3.2	3.3	3.5	3.5	3.5	3.7	4.0	3.9	3.8	4.0	4.1	4.1	4.3	4.2	4.3	4.0
School, 3's.	1929	3.2	3.2	3.3	3.5	3.5	3.5	3.7	4.0	3.9	3.8	4.0	4.1	4.1	4.3	4.2	4.3	4.0
Average.		3.2	3.2	3.3	3.5	3.5	3.5	3.7	4.0	3.9	3.8	4.0	4.1	4.1	4.3	4.2	4.3	4.0

JERSEY CITY, N. J.		1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936
Water, 5's	.....	3.7	3.7	3.8	4.0	4.0	3.9	4.0	4.2	4.4	3.9	4.1	4.1	4.2	4.3	4.2	4.3
Do, 10's	.....	3.7	3.7	3.8	4.0	4.0	3.9	4.0	4.2	4.5	3.9	4.1	4.1	4.2	4.3	4.2	4.3
Renewal Assessm't, 5's	.....	3.7	3.7	3.8	4.0	4.0	3.9	4.0	4.2	4.5	3.9	4.1	4.1	4.2	4.3	4.2	4.3
Do, 10's	.....	3.7	3.7	3.8	4.0	4.0	3.9	4.0	4.2	4.5	3.9	4.1	4.1	4.2	4.3	4.2	4.3
Average	.....	3.7	3.7	3.8	4.0	4.0	3.9	4.0	4.2	4.5	3.9	4.2	4.1	4.2	4.3	4.2	4.3
KANSAS CITY, MO.		.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Water, 4's	.....	3.3	3.2	3.3	3.4	3.6	3.5	3.6	4.0	4.0	3.8	4.1	4.1	4.1	4.6	4.4	(2)

## SUMMARY.

City.	1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916
New York City, N. Y.	3.0	3.1	3.2	3.3	3.4	3.5	3.8	4.0	4.1	4.0	4.2	4.1	4.2	4.4	4.2	(3)	4.0
Chicago, Ill.	3.3	3.3	3.4	3.6	3.8	3.7	3.9	4.0	4.0	3.9	4.1	4.1	4.1	4.4	4.3	(3)	4.0
Philadelphia, Pa.	2.9	3.0	3.1	3.3	3.4	3.4	3.4	3.7	3.8	3.7	3.9	3.9	4.0	4.2	4.0	4.2	4.0
St. Louis, Mo.	3.1	3.1	3.2	3.5	3.4	3.4	3.6	3.8	3.9	3.8	4.0	4.0	4.0	4.1	4.0	4.2	4.0
East n. Mass.	3.1	3.1	3.2	3.4	3.4	3.4	3.6	3.9	3.8	3.8	4.0	3.9	3.9	4.2	4.1	4.2	4.0
Cleveland, Ohio	3.2	3.2	3.3	3.7	3.7	3.6	3.7	3.9	4.0	3.8	3.9	3.9	3.9	4.0	3.9	3.9	3.9
Baltimore, Md.	3.0	3.0	3.0	3.1	3.1	3.1	3.3	3.7	3.8	3.7	4.0	4.0	4.1	4.2	4.3	4.3	4.2
Birmingham, Ala.	3.2	3.1	3.2	3.3	3.4	3.4	3.6	4.0	4.1	3.9	4.0	4.1	4.1	4.2	4.1	4.2	4.2
Detroit, Mich.	3.1	3.1	3.2	3.4	3.4	3.4	3.5	3.8	4.0	3.8	4.0	4.0	4.1	4.3	4.2	4.2	4.2
Buffalo, N. Y.	3.1	3.2	3.2	3.4	3.4	3.4	3.5	3.8	4.0	3.8	4.0	4.0	4.1	4.3	4.2	4.2	4.2
San Francisco, Cal.	3.3	3.3	3.3	3.7	4.0	3.4	3.5	4.1	4.1	4.0	4.3	4.1	4.1	4.8	4.6	4.7	4.3
Milwaukee, Wis.	3.2	3.1	3.2	3.5	3.6	3.7	3.6	4.0	4.0	3.9	4.1	4.0	4.1	4.3	4.2	4.2	4.0
Cincinnati, Ohio	3.2	3.1	3.2	3.4	3.4	3.4	3.6	3.8	3.7	3.8	3.9	3.9	3.8	4.0	3.8	3.8	3.5
Newark, N. J.	3.1	3.1	3.2	3.3	3.4	3.4	3.6	3.9	4.0	3.8	3.9	4.0	4.0	4.3	4.2	4.2	4.0
New Orleans, La.	4.0	4.0	3.9	3.9	3.8	3.8	4.1	4.2	4.1	4.4	4.1	4.2	4.4	4.5	4.4	4.5	4.5
Washington, D. C.	2.4	2.2	2.2	2.4	2.6	2.6	2.6	2.7	2.8	3.0	3.1	3.1	3.1	3.1	3.1	3.2	3.1
Los Angeles, Cal.	3.6	3.6	3.4	3.6	3.6	3.5	3.9	4.0	4.3	4.0	4.3	4.3	4.4	4.7	4.5	4.5	4.0
Minneapolis, Minn.	3.2	3.2	3.3	3.5	3.5	3.5	3.7	4.0	3.9	3.8	4.0	4.1	4.1	4.3	4.3	4.3	4.1
Jersey City, N. J.	3.7	3.7	3.8	4.0	4.0	3.9	4.0	4.2	4.5	3.9	4.2	4.1	4.2	4.3	4.2	4.3	4.1
Kansas City, Mo.	3.3	3.2	3.3	3.4	3.6	3.5	3.6	4.0	4.0	3.8	4.1	4.1	4.1	4.6	4.4	4.2	4.0
Average	3.2	3.2	3.3	3.4	3.5	3.4	3.6	3.9	3.9	3.8	4.0	4.0	4.1	4.3	4.2	4.2	4.0

1 No quotations.

2 Bond matured.

3 Changes produced by "averages based on fewer bonds."

4 Average based on fewer bonds.

5 No "through" bonds.

6 Based on 18 cities.

7 Based on 20 cities.

## Actual yields of bonds of largest cities: 1907-1914—Continued.

## GROUP C.—SUMMARY OF AVERAGES.

	1900 1901 1902 1903 1904 1905 1906 1907 1908 1909 1910 1911 1912 1913 1914 1915 1916																Advanced average.	
																	1900-1914	1900-1916
																	Per cent.	Per cent.
Average first 10 cities: No special issue selected	3.1	3.1	3.2	3.4	3.5	3.4	3.5	3.9	3.8	4.0	4.0	4.0	4.2	4.1	4.1	3.9	1.0=32	0.8=25.8
Average second 10 cities: No special issue selected	3.3	3.3	3.3	3.5	3.6	3.5	3.6	3.9	4.0	3.9	4.0	4.0	4.1	4.3	4.2	4.3	0.9=27	0.7=21.2
Average 20 cities: No special issue selected	3.2	3.2	3.3	3.4	3.5	3.4	3.6	3.9	4.0	3.9	4.0	4.0	4.0	4.3	4.2	4.2	1.0=31	0.8=25.0
Average 20 cities: Through bonds only	3.2	3.2	3.3	3.4	3.5	3.4	3.6	3.9	3.9	3.8	4.0	4.0	4.1	4.3	4.2	4.2	1.0=31	0.8=25.0
Average all: Through bonds	3.2	3.2	3.3	3.4	3.5	3.4	3.6	3.9	3.9	3.8	4.0	4.0	4.1	4.3	4.2	4.2	1.0=31	0.8=25.0

1 All systems yield same figures in 1915 and 1916.



Page 27, 1916.

Sheet No. 81  
To precede Exhibit No. 9, p. 1.

Inasmuch as the credit of railway companies is reflected in the actual yields of the bonds of a given company and since the bonds of the several degrees of security of a given railway company sell in sympathy with one another, it follows that a basic estimate of railway credit involves the presentation of the actual yields of a large number of bonds over a sufficiently long period of time to enable us to obtain a fair review of the trend. In an ordinary flotation, when bonds are underwritten by a banking house, there are several prices with accompanying yields: (I) The underwriter's price, which may be slightly higher than that given by computing the ratio of the net proceeds to the company divided by the par value; (II) the general syndicate price slightly higher than the underwriter's price; (III) the price at which these bonds are offered to the public; and (IV) current market quotations which are reported in the financial journals during the life of the bond. The fairest test of railway credit is in the market quotations of the bonds, reduced to actual yield and compared over a sufficiently long period of time. Inasmuch as corporations wait for favorable years and months in which to bring out new issues—often financing with short-term notes for several years while waiting—it follows that this practice, tending to lower the yields on underwriter's prices, counterbalances the commission, on original issues, so that the annual yields, based upon monthly quotations, fairly represent the credit of a railway over a series of years. Credit is, then, mirrored in the actual yields over a series of years. For the same railroad and the same security, if the actual yield over a sufficient period decreases from 4.6 to 4, from causes inherent in the company alone, then we should judge that the credit of the company had improved. If, on the other hand, this decrease was accompanied by an equal or greater decrease in securities closely approximating the pure money rate, we should judge that the change in the figures simply reflected causes, not inherent in the company alone, but affecting the general situation. In such a case, we judge that the credit of the company has remained unchanged or has declined, accordingly as the change in the securities approximating the pure money rate had declined in yield equally or more than the decline in the yield of the company.

Page 28, 1916.

## GROUP SUMMARIES, 1910-1916, RAILROADS AND MUNICIPALS.

Groups.	Number of bonds.	1900 1901 1902 1903 1904 1905 1906 1907 1908 1909 1910 1911 1912 1913 1914 1915 1916															Average, 1900- 1916.	Advance, 1900- 1916.			
Western railroads, 8 companies (consolidated).....	39	4.0	3.9	3.9	4.1	4.1	4.0	4.1	4.3	4.3	4.1	4.3	4.3	4.4	4.7	4.6	4.7	4.5	4.3	0.5	12.5
Southwestern railroads, 6 companies (consolidated).....	40	4.8	4.4	4.4	4.6	4.5	4.3	4.4	4.7	4.7	4.5	4.6	4.6	4.7	5.0	5.1	5.0	5.0	4.8	1.1	22.9
4 other railroads (consolidated).....	14	4.0	3.8	3.8	4.0	4.0	3.9	4.0	4.3	4.3	4.1	4.2	4.3	4.4	4.7	5.1	5.2	6.2	4.5	2.2	55.0
18 companies above (consolidated).....	93	4.3	4.1	4.1	4.3	4.3	4.1	4.2	4.5	4.5	4.3	4.4	4.4	4.5	4.8	4.9	5.6	5.1	4.5	1.1	25.6
13 companies <sup>1</sup> (consolidated).....	72	4.3	4.1	4.1	4.3	4.2	4.1	4.2	4.5	4.4	4.3	4.4	4.4	4.5	4.8	4.7	4.9	4.7	4.4	1.1	9.3
Average 20 cities, "no special issue selected" (from sheet 69).....		3.2	3.2	3.3	3.4	3.5	3.4	3.5	3.9	3.9	3.8	4.0	4.0	4.0	4.3	4.2	4.2	4.0	3.8	.8	25.0
Average 20 cities "through bonds only" (from sheet 69).....		3.2	3.2	3.3	3.4	3.5	3.4	3.5	3.9	3.9	3.8	4.0	4.0	4.1	4.3	4.2	4.2	4.0	3.8	.8	25.0
Average all "through bonds" (from sheet 69).....		3.2	3.2	3.3	3.4	3.5	3.4	3.5	3.9	3.9	3.8	4.0	4.0	4.1	4.3	4.2	4.2	4.0	3.8	.8	25.0

<sup>1</sup> Companies omitted, C. R. I. & P., M. K. & T., M. P., C. & A., and C. & E. I.

AVERAGE PRICES OF 15 RAILROAD STOCKS FOR THE PERIOD 1890-1914 FOR WHICH CONFIDENTIAL QUOTATIONS WERE OBTAINED FROM THE LIST OF THE ORIGINAL SUSPENSION ORDER AFFECTING 4 R.O.A.

[Authority: Financial Review.]

Page 29, 1916. Railroad stocks. sheet No. 115,  
Sublist No. 10, page 1.

Name of railroad.	1890	1891	1892	1893	1894	1895	1896	1897	1898	1899	1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916	
Atchison, Topeka & Santa Fe	37.5	35.2	37.7	24.5	8.7	5.8							83.2	72.6		76.2	86.8	95.8	83.3	113.1	4.5	1.7	197.3	97.7	96.0	101.4	104.5	
Chicago, Burlington & Quincy	101.3	90.2	103.1	86.0	76.0	80.3	73.9	84.7	106.3	135.1	127.4	176.1	196.2	178.0		205.7	219.6	267.1	267.6	293.4	210.0	220.0	226.0	220.9	210.0	192.8	197.2	
Chicago, Milwaukee & St. Paul	67.0	65.3	79.8	67.8	60.6	66.7	73.3	83.9	101.3	127.1	119.0	161.5	175.7	153.0		151.7	178.3	176.6	126.4	131.5	153.3	131.5	119.3	108.3	106.2	98.2	89.5	95.6
Chicago & North Western	109.5	109.6	116.7	105.3	104.1	99.4	100.9	113.9	128.1	139.2	162.6	193.8	234.1	176.8		179.6	222.1	230.8	149.4	156.1	182.7	119.1	115.1	140.1	173.0	131.3	127.1	125.7
Chicago, St. Paul, Minneapolis & Omaha	30.8	28.7	49.5	41.5	36.3	38.0	40.0	65.3	78.5	106.3	116.9	137.9	156.7	131.0		115.2	189.8	179.6	132.4	134.1	175.8	117.0	135.9	131.8	121.2	128.8	117.2	127.7
Great Northern	74.3	94.3	132.7	118.8	102.3	117.0	114.8	127.7	115.6	173.6	161.6	188.6	188.8	183.9		198.6	200.8	236.9	143.7	120.1	116.8	121.6	137.0	135.0	155.3	125.0	119.2	125.7
Illinois Central	110.8	90.1	103.1	95.5	92.0	94.7	93.3	99.0	106.8	115.1	116.6	140.5	150.7	131.7		136.4	168.3	171.1	119.3	155.5	118.5	131.2	178.8	150.6	113.6	116.4	166.6	104.6
Minneapolis & St. Louis	6.0	5.9	13.8	15.8	8.9	21.6	17.7	22.0	27.9	59.4	60.2	95.8	110.7	76.0		56.3	67.4	71.1	41.3	30.8	55.5	32.5	30.6	23.4	16.3	13.1	11.6	6.4
Missouri, Kansas & Texas	7.8	15.2	15.1	12.8	14.0	16.0	11.8	13.3	11.8	13.1	11.3	25.9	27.4	22.0		21.2	31.7	35.0	33.7	28.9	43.2	36.7	32.8	28.3	22.1	16.8	9.1	5.4
Missouri Pacific	70.8	65.5	60.0	36.4	27.0	29.3	22.2	21.3	33.2	46.2	52.3	99.6	107.1	100.7		95.8	103.3	95.9	70.1	50.8	71.9	59.8	46.0	41.7	32.7	19.8	3.2	6.9
Northern Pacific	31.4	26.0	29.8	11.6	14.6	4.6	7.7	15.9	31.7	51.7	57.0	111.9	157.7	170.5		148.3	196.3	208.0	133.0	135.7	117.1	124.2	123.1	122.5	112.5	110.1	107.4	112.3
Southern Pacific	31.9	33.8	37.4	25.7	20.5	21.3	18.1	17.3	29.7	36.1	39.9	53.0	67.0	51.5		52.8	66.5	77.1	81.5	91.3	126.3	119.5	117.2	119.6	91.5	92.2	90.6	98.9
Texas & Pacific	19.7	11.1	10.5	8.0	9.1	10.7	8.0	10.6	12.7	20.5	17.0	38.5	43.2	30.5		27.5	35.0	31.7	27.2	23.2	35.1	22.8	21.7	1.3	1.5	1.1	13.3	12.0
Union Pacific	54.1	43.8	41.7	27.0	14.7	12.0	7.6	12.7	29.8	45.6	57.4	98.8	103.8	83.0		92.8	129.5	161.0	138.2	137.9	193.2	175.0	175.1	164.0	151.9	149.4	128.5	134.7
Wabash	12.0	11.5	11.8	8.8	6.9	7.7	6.6	6.6	7.5	7.9	7.8	20.1	28.3	21.0		19.3	21.1	20.8	12.8	12.9	29.2	18.8	14.4	5.8	3.5	1.6	7.0	(1)
Average	51.4	49.2	55.7	45.7	39.0	41.7	39.7	47.3	57.0	71.5	75.1	109.7	122.0	106.0		109.6	133.8	157.2	160.1	99.7	129.7	110.8	112.6	99.0	87.8	81.8	81.1	

† Inserted for continuity.

‡ Bid prices.

\* Approximate.  
† No quotations.



Sheet No. 127.

(To precede Exhibit No. II, page 1.)

Exhibit No. II, page 1, contains the prices of all railroads mentioned in the original suspension order for which quotations were found in the Financial Review for the periods 1890 to 1914 or 1900 to 1914.

Exhibit No. II, page 2, classifies the roads into three groups, western, southwestern, and other than western and southwestern. The average prices appear only for the stocks for which substantially continuous quotations were found in the Financial Review for the period 1890 to 1914.

Exhibit No. II, page 3, contains similar quotations for all the stocks for which quotations were obtained for the period 1900 to 1914. Averages were computed for the three groups and several comparisons are presented in graphic form.

# GROUP A.—WESTERN RAILROADS IN ORIGINAL SUSPENSION ORDER FOR WHICH IT WAS POSSIBLE TO OBTAIN FROM THE FINANCIAL REVIEW QUOTATIONS OF COMMON STOCKS FOR THE YEARS 1890-1914.

Sheet No. 129.

Railway credit—Exhibit No. II, page 2.

[Authority: Financial Review.]

Page 31, 1916.  
Railroad stocks—Average prices.

Name of railroad.	1890	1891	1892	1893	1894	1895	1896	1897	1898	1899	1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916
Chicago, Burlington & Quincy	101.3	90.2	103.1	86.6	76.0	80.3	73.9	84.7	106.3	135.1	127.4	176.1	196.2	217.8	205.7	219.6	207.1	207.6	205.0	220.4	210.0	200.0	209.0	229.0	210.0	192.8	197.2
Chicago, Milwaukee & St. Paul	67.0	65.3	79.8	67.8	60.6	66.7	73.3	83.9	101.3	127.1	119.0	161.3	173.7	153.0	151.7	178.3	176.6	126.4	151.5	153.3	151.5	119.3	108.3	106.2	98.2	89.5	95.6
Chicago & North Western	109.5	109.6	116.7	105.3	101.1	99.4	100.9	113.9	128.4	159.2	162.6	193.8	234.1	176.8	179.6	222.1	210.8	149.4	156.1	182.7	149.4	143.1	140.1	130.0	131.3	127.4	127.7
Chicago, St. Paul, Minneapolis & Omaha	30.8	28.7	49.5	41.5	36.3	38.0	40.0	65.3	78.5	106.3	116.9	137.9	156.7	133.0	146.2	189.8	179.6	132.4	154.1	157.8	147.0	135.9	134.8	121.2	128.8	117.2	127.7
Great Northern	74.3	91.3	132.7	118.8	102.3	117.0	114.8	127.7	145.6	173.6	161.0	188.6	188.8	183.9	189.6	200.8	306.0	134.7	130.4	146.8	129.6	127.9	135.0	125.9	119.2	119.2	127.7
Minneapolis & St. Louis	6.0	5.9	13.8	15.8	8.9	121.6	17.7	22.0	27.9	59.4	60.2	95.8	110.7	76.0	56.3	67.4	71.4	44.3	30.8	55.5	32.5	30.6	23.4	16.3	13.1	14.6	6.4
Northern Pacific	31.1	26.0	20.8	11.6	4.6	4.6	17.7	15.9	31.4	51.7	57.0	144.9	157.7	170.5	183.3	196.1	208.6	130.0	135.2	147.1	124.2	122.5	112.3	110.1	107.6	112.3	
Union Pacific	59.9	43.8	41.7	27.0	14.7	12.0	7.6	12.7	29.8	45.6	57.4	98.8	103.8	83.0	92.8	129.5	104.0	138.2	147.9	193.2	175.0	175.4	169.0	151.9	149.6	128.5	139.7
Average	60.0	58.0	69.8	59.3	50.9	55.0	51.5	65.8	81.2	107.3	107.7	149.7	165.5	144.3	150.7	186.7	190.5	132.9	133.9	158.4	137.4	132.2	130.3	123.0	120.6	124.6	116.8

GROUP B.—SOUTHWESTERN RAILROADS IN ORIGINAL SUSPENSION ORDER FOR WHICH IT WAS POSSIBLE TO OBTAIN FROM THE FINANCIAL REVIEW QUOTATIONS OF COMMON STOCKS FOR THE YEARS 1890-1914.

Atchison, Topeka & Santa Fe.....	37.5	35.2	37.7	24.5	8.7	5.8	0.0	12.8	13.2	21.0	28.1	70.8	52.2	72.6	76.2	86.8	95.8	88.6	83.3	113.1	105.4	107.7	107.3	97.7	96.0	101.4	101.5
Missouri, Kansas & Texas.....	7.8	15.2	15.0	12.8	11.0	16.0	11.8	13.3	11.8	13.1	11.3	25.9	27.4	22.0	21.2	31.7	35.6	33.7	28.9	43.2	36.7	32.8	28.5	22.9	16.8	9.1	5.4
Missouri Pacific.....	70.8	63.5	60.0	36.1	27.0	20.3	22.2	24.3	33.2	46.2	32.3	39.6	107.1	106.7	95.8	103.3	95.9	70.1	50.8	71.9	59.8	46.6	41.2	32.7	19.8	9.2	6.9
St. Louis Southwestern.....	7.9	8.2	5.7	4.5	6.5	4.4	4.2	5.1	12.9	12.5	23.1	29.8	19.2	17.0	24.2	23.8	19.0	16.6	25.8	27.9	31.0	34.1	27.7	22.3	16.7	20.2	
Southern Pacific.....	31.9	33.8	37.4	25.7	20.5	21.3	18.1	17.3	20.7	36.1	36.9	53.0	67.0	51.5	52.8	66.5	77.4	81.5	91.3	126.3	119.3	115.2	110.6	94.9	92.6	90.6	98.9
Texas & Pacific.....	19.5	14.1	10.5	8.0	9.1	10.7	8.0	10.6	12.7	20.5	17.0	38.5	43.2	30.5	27.5	35.0	34.6	27.2	23.2	35.1	28.8	26.6	23.5	16.1	15.1	13.3	12.0
Average.....	33.5	28.6	28.3	18.9	14.0	14.9	10.8	13.8	16.1	25.0	26.3	52.8	59.6	49.4	48.1	57.9	60.5	53.4	49.0	69.4	63.0	60.0	57.6	48.7	43.8	40.1	41.3

GROUP C.—RAILROADS OTHER THAN WESTERN AND SOUTHWESTERN IN ORIGINAL SUSPENSION ORDER FOR WHICH IT WAS POSSIBLE TO OBTAIN FROM THE FINANCIAL REVIEW QUOTATIONS OF COMMON STOCKS FOR THE YEARS 1890-1914.

Chicago & Alton.....	130.7	130.6	147.1	137.9	110.6	156.0	156.4	100.8	159.1	171.9	37.2	39.0	37.2	28.9	39.0	37.0	31.0	16.0	25.7	47.5	41.5	24.6	19.3	10.9	9.7	10.8	10.5
Illinois Central.....	100.8	99.1	103.4	93.5	92.0	94.7	93.3	99.0	106.8	115.1	116.6	40.5	50.7	53.7	53.6	108.3	117.4	140.1	135.3	148.3	134.2	138.8	130.6	113.6	110.6	106.6	104.6
Wabash.....	12.0	11.5	11.8	8.8	6.9	7.7	6.6	6.6	7.5	7.9	7.8	20.1	23.3	24.0	19.3	21.1	20.8	12.8	12.0	20.2	18.8	14.4	3.8	3.5	1.6	.7	(2)

1 Reorganized.

2 No quotation

Page 32, 1916.  
Railroad stocks—Average prices.

Sheet No. —  
Railway credit—Exhibit No. 11, page 3.

GROUP D.—WESTERN RAILROADS IN ORIGINAL SUSPENSION ORDER FOR WHICH IT WAS POSSIBLE TO OBTAIN FROM THE FINANCIAL REVIEW  
QUOTATIONS OF COMMON STOCKS FOR THE YEARS 1900-1914.

[Authority: Financial Review.]

Name of railroad.	1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916
Chicago, Burlington & Quincy.....	127.4	176.1	196.2	178.0	205.7	219.6	207.1	207.6	205.0	230.4	240.0	200.0	201.0	220.0	210.0	192.8	135.2
Chicago Great Western.....	12.8	22.7	28.0	19.8	17.1	21.5	19.3	11.3	7.0	5.1	20.6	21.4	18.3	13.7	12.4	12.6	13.4
Chicago, Milwaukee & St. Paul.....	119.0	161.5	175.7	153.0	151.7	178.3	176.6	126.4	131.5	133.5	131.5	119.3	108.3	106.2	98.2	89.5	95.6
Chicago & North Western.....	162.6	193.8	234.1	176.8	179.6	222.1	210.8	190.4	156.1	182.7	199.4	115.1	140.1	130.0	131.3	127.4	127.7
Chicago, St. Paul, Minneapolis & Omaha.....	116.9	137.9	156.7	133.0	146.2	180.8	179.6	132.1	134.1	157.8	147.0	135.9	131.8	121.2	128.8	117.2	127.7
Great Northern.....	161.0	188.6	188.8	183.9	189.6	200.8	206.0	131.7	130.1	156.8	159.5	127.9	135.0	125.9	121.9	119.2	127.7
Minneapolis & St. Louis.....	60.2	95.8	110.7	76.0	56.3	67.4	71.4	41.3	30.8	55.5	32.5	30.4	23.4	16.3	17.1	11.6	6.4
Minneapolis, St. Paul & Sault Ste. Marie.....	19.1	24.4	62.7	61.4	71.3	121.8	152.1	99.3	112.8	140.1	131.8	137.3	112.4	131.3	121.7	117.6	121.9
Northern Pacific.....	57.0	141.9	157.7	170.5	183.3	196.1	208.6	130.0	135.2	147.1	124.2	124.1	122.5	112.3	110.1	107.6	112.3
Union Pacific.....	57.4	98.8	103.8	82.0	92.8	126.5	161.0	138.2	147.5	193.2	175.0	175.1	169.0	151.9	149.6	128.5	130.7
Average.....	89.3	121.5	144.4	123.5	129.4	163.9	169.6	117.4	119.1	111.2	125.7	121.6	120.3	112.9	110.0	112.7	107.0

GROUP E.—SOUTHWESTERN RAILROADS IN ORIGINAL SUSPENSION ORDER FOR WHICH IT WAS POSSIBLE TO OBTAIN FROM THE FINANCIAL  
REVIEW QUOTATIONS OF COMMON STOCKS FOR THE YEARS 1900-1914.

Atchafalpa, Topeka & Santa Fe.....	28.1	70.8	83.2	72.6	76.2	86.8	95.8	88.6	83.3	113.1	105.4	107.7	107.3	97.3	99.0	101.1	101.5
Colorado & Southern.....	6.3	13.0	28.5	19.3	17.8	27.1	35.5	25.6	34.0	50.3	57.7	52.2	40.9	29.0	21.4	29.2	30.5
Kansas City Southern.....	12.0	19.8	30.0	21.9	22.6	28.1	28.5	25.2	25.5	44.8	32.8	32.3	27.0	25.1	26.6	23.2	20.5
Missouri, Kansas & Texas.....	11.3	25.9	27.1	22.0	21.3	31.7	35.6	33.7	28.9	43.2	36.7	32.8	28.5	32.9	16.8	9.1	5.1
Missouri Pacific.....	52.3	91.6	107.1	109.7	95.8	101.3	95.9	70.1	59.8	71.0	59.8	45.6	41.2	36.7	19.8	9.2	6.9
St. Louis & San Francisco.....	11.7	43.3	70.9	77.2	72.6	76.0	67.8	63.8	53.1	69.9	65.7	55.1	34.0	9.1	3.2	4.6	3.8
St. Louis Southwestern.....	1.3	29.1	29.8	19.2	17.0	24.2	23.8	19.0	16.6	26.8	27.9	21.0	21.4	27.7	22.3	16.7	20.2
Southern Pacific.....	1.9	33.0	67.0	51.5	52.8	66.5	77.4	81.5	91.3	126.3	119.3	115.2	110.6	91.9	92.6	90.6	98.9
Texas & Pacific.....	1.0	38.5	43.2	30.5	27.5	35.0	34.6	27.2	23.2	53.1	28.8	26.0	23.5	16.1	15.1	13.3	12.0
Average.....	20.9	43.7	51.1	46.4	44.8	53.3	55.0	48.3	45.2	65.6	59.5	52.2	48.6	39.5	34.9	33.4	31.3



GROUP F.—RAILROADS OTHER THAN WESTERN AND SOUTHWESTERN IN ORIGINAL SUSPENSION ORDER FOR WHICH IT WAS POSSIBLE TO OBTAIN FROM THE FINANCIAL REVIEW QUOTATIONS OF COMMON STOCKS FOR THE YEARS 1900-1914.

Chicago & Alton.....	137.2	39.6	37.2	28.9	39.0	37.0	31.0	16.0	25.7	67.5	41.5	24.6	19.3	10.9	9.7	10.8	10.5
Illinois Central.....	116.6	140.5	150.7	134.7	136.4	108.3	174.4	140.1	135.3	148.3	134.2	138.8	130.6	113.6	110.6	6.6	104.6
Wabash.....	7.8	20.1	28.3	24.0	19.3	21.1	20.8	12.8	12.0	20.2	18.8	14.4	5.8	3.5	1.6	.7	(2)
Average.....	53.9	66.7	72.1	62.5	64.9	75.5	75.4	56.3	57.7	78.7	64.8	59.3	51.9	42.7	40.6	39.4	338.4

<sup>1</sup> Reorganized.<sup>2</sup> No quotation.<sup>3</sup> Based on assuming a quotation of zero for Wabash.

## Railroad stocks—Average prices.

Railway credit—Exhibit No. 11, page 1.

## Average prices of 25 railroad stocks for the period 1890-1914.

[Authority: Financial Review.]

Name of railroad.	1890	1891	1892	1893	1894	1895	1896	1897	1898	1899	1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916
Atchison, Topeka & Santa Fe.....	37.5	35.2	37.7	24.5	8.7	5.8	.....	112.8	13.2	21.0	28.1	70.8	83.2	72.6	76.2	86.8	95.8	88.6	83.3	113.1	105.4	107.7	107.3	9.77	96.0	101.4	104.5
Chicago & Alton.....	130.7	130.6	147.1	137.9	140.6	156.0	156.0	160.8	159.1	171.9	137.2	39.6	37.2	28.9	39.0	37.0	31.0	16.0	25.7	67.5	41.5	24.6	19.3	10.9	9.7	10.8	10.5
Chicago, Burlington & Quincy.....	101.3	90.2	103.1	86.6	76.0	80.3	73.9	84.7	106.3	135.1	127.4	176.1	196.2	178.0	205.7	219.6	207.1	207.6	205.0	230.4	210.0	200.0	200.0	220.0	210.0	192.8	197.2
Chicago Great Western & Chicago, Milwaukee & St. Paul.....	67.0	65.3	79.8	67.8	60.6	66.7	73.3	83.9	101.3	127.1	119.0	161.5	175.7	153.0	151.7	178.3	176.6	126.4	131.5	153.3	131.5	119.3	108.3	106.2	98.2	89.5	90.6
Chicago & North Western.....	109.5	109.6	116.7	105.3	104.1	99.4	100.9	113.9	128.4	159.2	162.6	193.8	234.1	176.8	179.6	222.1	210.8	149.4	156.1	182.7	149.4	145.1	140.1	130.0	131.3	127.4	127.7
Chicago, Rock Island & Pacific.....	86.9	76.3	83.5	72.3	65.9	70.7	66.0	76.5	97.3	115.3	108.9	142.0	179.5	162.0	145.7	168.9	150.0	.....	.....	.....	.....	.....	.....	57.5	33.0	20.7	22.3
Rock Island Co., Chicago, St. Paul, Minneapolis & Omaha.....	30.8	28.7	49.5	41.5	36.3	38.0	40.0	63.3	78.5	106.3	116.9	137.9	156.7	133.0	146.2	189.8	179.6	132.4	134.1	157.8	147.0	135.9	134.8	121.2	128.8	117.2	127.7
Colorado & Southern.....	74.3	94.3	132.7	118.8	102.3	117.0	114.8	127.7	145.6	173.6	161.1	188.6	188.8	183.9	180.6	200.8	306.0	131.7	130.4	146.8	129.6	127.9	135.0	125.9	123.9	119.2	127.7
Illinois Central, leased lines.....	96.1	91.8	90.7	88.4	88.9	88.8	89.5	93.3	97.6	102.2	102.1	105.3	105.0	102.0	104.6	104.3	103.3	94.6	94.0	100.1	96.0	95.3	.....	.....	.....	.....	
Illinois Central.....	110.8	99.1	103.4	95.5	92.0	94.7	93.3	99.0	106.8	115.1	116.6	140.5	130.7	134.7	136.4	108.3	174.4	140.1	135.3	148.3	134.2	138.8	130.6	113.6	110.6	106.6	104.6
Kansas City Southern.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Minneapolis & St. Louis.....	6.0	5.9	13.8	15.8	8.9	21.6	17.7	22.0	27.9	59.4	60.2	95.8	110.7	76.0	56.3	67.4	71.4	41.3	30.8	55.5	32.5	30.6	23.4	16.3	13.1	14.6	6.4
Minneapolis, St. Paul & Sault Ste. Marie.....	.....	.....	.....	.....	.....	.....	.....	6.0	7.0	22.0	19.1	24.4	62.7	61.1	71.3	123.8	152.1	99.3	112.8	140.1	133.8	137.3	142.1	131.3	122.7	117.6	121.9
Missouri, Kansas & Texas.....	7.8	15.2	15.9	12.8	14.0	16.0	11.8	13.3	11.8	13.1	11.3	25.9	27.4	22.0	21.2	31.7	35.6	33.7	28.9	43.2	36.7	32.8	28.5	22.9	16.8	9.1	5.4
Missouri Pacific.....	70.8	65.5	60.0	36.4	27.0	20.3	22.2	24.3	33.2	46.2	52.3	99.6	107.1	100.7	95.8	103.3	95.9	70.1	50.8	71.9	59.8	46.6	41.2	32.7	19.8	9.2	6.9
Northern Pacific.....	31.1	26.0	20.8	11.6	4.6	4.6	7.7	15.9	31.4	51.7	57.0	141.9	137.3	170.5	183.3	196.1	128.6	130.0	135.2	147.1	124.2	123.1	122.5	112.3	110.1	107.6	112.3
St. Louis & San Francisco.....	23.6	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
St. Louis & Southwestern.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Southern Pacific.....	31.9	33.8	37.4	25.7	20.5	21.3	18.1	17.3	20.7	36.1	36.9	53.0	67.0	51.5	52.8	66.5	77.4	81.5	91.3	126.3	119.3	115.2	110.6	94.9	92.6	90.6	98.9
Texas & Pacific.....	19.5	14.1	10.5	8.0	9.1	10.7	8.0	10.6	12.7	20.5	17.0	38.5	43.2	30.5	27.5	35.0	34.6	27.2	23.2	35.1	28.8	26.6	23.5	16.1	15.1	13.3	12.0
Union Pacific.....	59.9	43.8	41.7	27.0	14.7	12.0	7.6	12.7	29.8	45.6	57.4	98.8	103.8	83.0	92.8	129.5	164.0	138.2	147.9	193.2	175.0	175.4	169.0	151.9	149.5	128.5	133.7
Wabash.....	12.0	11.5	11.8	8.8	6.9	7.7	6.6	6.6	7.5	7.9	7.8	20.1	28.3	24.0	19.3	21.1	20.8	12.8	12.0	20.2	18.8	14.4	.....	.....	.....	.....	.....

1 Reorganized.

2 Bid price.

3 Inserted for continuity.

4 No quotations.

LETTER FROM THE CHAIRMAN AND VICE CHAIRMAN OF THE JOINT SUBCOMMITTEE ON INTERSTATE AND FOREIGN COMMERCE SUBMITTING A REPORT OF THE WORK OF THE COMMITTEE SINCE ITS ORGANIZATION.

To the SENATE AND HOUSE OF REPRESENTATIVES:

The Joint Subcommittee on Interstate Commerce appointed pursuant to Senate joint resolution No. 60 (Public, No. 25), reports that, owing to the late adjournment of the last session of Congress and the ensuing election campaign, it was impossible to hold any meetings of the joint subcommittee except for purposes of organization until the 20th day of November, 1916, when it met at Washington; that since that date and up to and including the 2d day of December, 1916, it held almost daily sessions and hearings upon the matters referred to the subcommittee for investigation; that the pressure of the work in Congress during this short session both in the committee and on the floor made it impossible for the members of the joint subcommittee further to attend to and complete its duties during the pending session; and that they therefore concluded to postpone further sessions until after the 4th of March, 1917, and meanwhile to request of Congress an extension of the time of report to the first Monday in December, 1917.

Respectfully submitted.

FRANCIS G. NEWLANDS, *Chairman.*  
W. C. ADAMSON, *Vice Chairman.*

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JOINT RESOLUTION To continue and extend the time for making report of the joint subcommittee appointed under a joint resolution entitled "Joint Resolution creating a joint subcommittee from the membership of the Senate Committee on Interstate Commerce and the House Committee on Interstate and Foreign Commerce to investigate the conditions relating to interstate and foreign commerce, and the necessity of further legislation relating thereto, and defining the powers and duties of such subcommittee," approved July twentieth, nineteen hundred and sixteen, and providing for the filling of vacancies in said subcommittee.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the joint subcommittee heretofore appointed under S. J. Res. 60 (Public Resolution Numbered Twenty-five, Sixty-fourth Congress), approved July twentieth, nineteen hundred and sixteen, entitled "Joint Resolution creating a joint subcommittee from the membership of the Senate Committee on Interstate Commerce and the House Committee on Interstate and Foreign Commerce to investigate the conditions relating to interstate and foreign commerce, and the necessity of further legislation relating thereto, and defining the powers and duties of such subcommittee," be and the same hereby is continued and is authorized to sit either during the session of Congress or during the recess and to make its report to Congress on or before the first Monday in December, nineteen hundred and seventeen.

In the event that any House Member of said subcommittee shall cease to be a Member of Congress by reason of not being reelected, or if a vacancy should otherwise occur in the House membership of said subcommittee when Congress is not in session, the next ranking member of the committee from which the retiring member was selected shall fill the vacancy.

Approved, January 15, 1917.

---

(March 4, 1919, the following report, recommending that the joint subcommittee cease its activities, was presented to the Senate by Senator Ellison D. Smith, of South Carolina, chairman:)

IN THE SENATE OF THE UNITED STATES.

Report of the joint subcommittee of the Committees on Interstate Commerce of the Senate and Interstate and Foreign Commerce of the House of Representatives, created under joint resolution No. 25 of the Sixty-fourth Congress.

The above-named committee begs leave to report as follows:

The joint subcommittee, created by public resolution No. 25 of the Sixty-fourth Congress, made its report to Congress on January 9, 1917, and recommended therein that the time for making a complete report be extended to the first Monday in December following. Congress approved the recommendation, and in public resolution No. 44, Sixty-fourth Congress, approved January 15, 1917, so provided.

It was the purpose of the joint subcommittee to enter upon this investigation actively upon the adjournment of Congress on March 4 of that year. However, war with



Germany was declared in April of the same year, and conditions became so abnormal that no investigation conducted would elicit information affording a safe basis for a comprehensive revision of existing laws and methods of railroad operation believed to be susceptible of material improvement under normal conditions. Recognizing the difficulties and importance of the task, Congress, in an act approved October 6, 1917, extended the time for the making of this report until the first Monday in December, 1918.

Notwithstanding the work incident to the war, your committee has taken a large amount of testimony and devoted much time to the study of the questions covered by the resolution. Since the creation of the joint subcommittee the Government has taken over the railroads and operated them as a war necessity.

In view of the fact that the appropriate committees of the Senate and of the House of Representatives, respectively, have the whole subject under consideration—the Interstate Commerce Committee of the Senate having just concluded, for the time being at least, exhaustive hearings—it is deemed inadvisable that the said joint subcommittee resume its activities, and it is so recommended.

Respectfully submitted.

E. D. SMITH.  
O. W. UNDERWOOD.  
JOE T. ROBINSON.  
CHARLES E. TOWNSEND.  
ALBERT B. CUMMINS.  
T. W. SIMS.  
FRANK E. DOREMUS.  
DAN V. STEPHENS.  
JOHN J. ESCH.  
E. L. HAMILTON.

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